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The American Journal of ECONOMICS and SOCIOLOGY

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The AMERICAN JOURNAL *of* ECONOMICS *and* SOCIOLOGY

Published QUARTERLY under grant from the Robert Schalkenbach Foundation in the interest of constructive synthesis in the social sciences.

WILL LISSNER
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VOL. 1 JANUARY, 1942 No. 2

The Role of the Social Sciences in Political Reconstruction

A Message to the Collaborators in The American Journal of Economics and Sociology

CHARLES A. BEARD HAS REMARKED that American political science, down to 1860, was a powerful and original contribution to world thought. Hamilton, Jefferson, John Adams, John Marshall, Taney, Webster, Clay, Calhoun, Lincoln were men who spoke and wrote like men. Since 1860 the American contribution to political thought has been mediocre. Why? Beard's explanation is that in the earlier period the political thinkers were also men of action. In the later period they have been scholars, professors.

There are exceptions to Beard's rule, the most outstanding being himself. In the main, however, it is sound. The academic process necessarily specializes. To keep up with the movement of economic science one must limit his interest to economics. Nor indeed can one keep in touch with the whole field of economics. He must limit himself to prices, or taxation, or international trade. Even so, further specialization is indicated. And so of the other social sciences. In the end no one has more than a fragment of the knowledge of social

affairs, a fragment he cannot really use. The demand for synthesis comes to be heard on every hand.

But synthesis is no answer to overspecialization. You cannot reconstitute an organic body by putting together the several limbs that have been trimmed to suit the specialists' requirements.

Any practical social-economic problem is in itself organic. It is never exclusively a problem of economics or sociology or political science. All three sciences—and a number of others—are involved. One will not make headway toward the solution of the problem by thrusting economist, sociologist and political scientist into a cell and requiring them to synthesize. Another kind of thinker is required, one who is keenly alive to the problem as an organic whole. He can profitably use ideas, analyses, conclusions of the several sciences, but he cannot give those sciences any place above that of a convenient instrument of his own thinking.

THE JOURNAL OF ECONOMICS AND SOCIOLOGY has set out on the right track. It is an organ of laymen's thought on actual problems. If it admits professors to its list of contributors, they must appear in the guise of laymen. It is not an impossible requirement. There is a live layman under even the most case-hardened academic carapace.

There is great need for a journal of the kind—for many journals, for a whole literature. The world is swiftly changing. We need a new outburst of creative thought.

ALVIN JOHNSON

The Law Schools and the New Profession of Social Technician

By FREDERICK K. BEUTEL

RECENTLY THERE HAS BEEN considerable discussion of the fact that there is emerging all over the world a new profession of management of both private and public business. These persons neither own the business which they operate nor win the elections to public office. Nevertheless, they are increasingly taking over the control of the operation of our social machinery because it is too complicated to be run by amateurs, whether they be stockholders or voters.[1]

In the past much of this technical work of managing complicated social affairs has been done by legally trained personnel, and there are those who still believe that the law schools have the key for entrance into this new profession. Others feel that the present legal training is wholly beside the point and can offer nothing of value toward the development of this new profession.

It might be worthwhile to examine briefly the qualifications of our American law schools as centers for training the newly emerging profession of managers, or social technicians.

What the Law Schools Are Doing Now

AT THE PRESENT TIME our legal education, concerned almost entirely with court decisions, is doing little more than drill the students intensively in the technique of trying cases.[2] With attention in instruction directed almost entirely toward prosecution of private litigation, the great body of the cur-

[1] Cf. James Burnham, "The Managerial Revolution," New York, 1941.

[2] Karl N. Llewellyn, "On What Is Wrong with So-called Legal Education," 1935, 35 Col. L. Rev., p. 651; Riesman, "Law and Social Science," 1941, 50 Yale L. Jour., p. 636.

riculum is made up of cases decided in the Nineteenth Century in suits between individual business men. The field of public law, insofar as it is studied, is relegated to an examination of judicial veto of government action, based on some sort of idea that the government operates outside the legal system. It is significant that there is not a single school in America devoted exclusively or even to a preponderant degree to training public lawyers for the practice of law either as public servants or as specialists opposing the government. In fact, law students can and do graduate from leading institutions like Harvard Law School without taking a single course in public law,[3] and it should be said that the Harvard Law School is not much more backward in this respect than the others, which have copied its curriculum to such a degree that the field of public law plays a very minor rôle in the great majority of schools. This state of the curriculum, badly out of line with the actual legal as well as the social condition of the nation where the government now interferes with almost every aspect of life, is simply an historic accident, based on the case method. It cannot be corrected, either for the purpose of training in the art of social control or even for the simple end of preparing students to "practice law" as we now understand it, by the expedient of adding another year to the curriculum.[4] The difficulty lies in our theories of the nature of law and our method of study.

The Case Method

THE CASE METHOD, which is the touchstone of our system, needs re-examination even when used merely as a basis for a training to enter the narrower field of practice of law.

[3] See 27 Official Register of Harvard University, The Law School, 1940, No. 29, p. 22. Criminal law, sometimes classed as a public law course, is required in the first year for two hours, one semester, ibid., p. 9.

[4] Merrill, 1939, Handbook of Association of American Law Schools, p. 97; and for a bibliography on the subject see Association of American Law Schools Program, 1939. pp. 36, 47–50.

Our law schools and law curricula have been built up around "the common law" which is a well-known assumption that law consists of a rationalization of the decided cases of Anglo-American courts. In a primitive society such as existed in the Early Roman Empire, in Fourteenth Century England, or in the frontier society of this country in the Eighteenth and Nineteenth Century where there was little or no written law, the judges' decision of a case was the best and almost only evidence upon which one could rely in determining the meaning of law. Therefore, the decided case, based on the written opinion, was the source material out of which the jurist or lawyer could fashion a set of laws for advising clients and winning future cases. The primitive condition of legislation and public records made the reported case about all the evidence there was for one desiring to study the mechanism of social control by law.

Langdell, late in the Nineteenth Century, re-vitalized this process and began what we have been pleased to call the scientific study of cases. But it is an interesting commentary on the development of culture that as soon as social phenomena are recognized and named, they have often run their course of usefulness and are already being replaced by other social devices. Just as the schools, under the leadership of Langdell, began to study the cases, society and the legal order embarked upon a tremendous development of legislative and administrative rules. This was followed shortly afterward by a complete rewriting of the common law in the form of a restatement which may supersede the unwritten law where it is still pertinent. The power to settle social disputes, the prevention of future activities against the public order and the authoritative interpretation of law began to pass from the judicial to the executive and legislative branches of the government. About all that remained to the judicial branch in the field of adjustment of social interests by government

action was a veto power that received a staggering blow in the court-packing fight of 1937.

In view of our present legal theories and sanctions, the old common law methods amount to little more than spreading superstition and encouraging a technique for settling private controversies, a technique that is often entirely irrelevant to the issues and wholly at odds with the demands of social justice.[5] But the study of cases and the development of the case method are intriguing operations which have been developed far beyond their usefulness as a method of social control or as a device for scientific research. The emphasis on cases has been so completely overweighted that one would have no difficulty in finding honor students of the law and many teachers in the law faculties who would defend the ridiculous proposition that "legislation is meaningless without a court decision interpreting it."

In fact, the concentrated study of the cases has often caused us to conceive a "common law" where none ever existed or where it has long since ceased to have any appreciable place in the legal order. Even in the field of private law, we talk, for example, about the common law of negotiable instruments, sales, insurance, or corporations, or even property, when as a matter of fact in the first-named subject there never was any common law[6] and, in most of the others, the basic concepts used today are to be found in ancient or modern statutes and codes.[7]

Turning to public law, this distortion is even more serious. In the United States, at least, it is silly to talk about public common law when it is a well-known fact that our public

[5] For a further discussion of this point see, F. K. Beutel, "Some Implications of Experimental Jurisprudence," 1934, 43 Har. L. Rev., pp. 169, 180 ff.

[6] F. K. Beutel, "The Development of Negotiable Instruments in Early English Law," 1938, 51 Har. L. Rev., p. 813; ibid., "The Development of Statutes on Negotiable Paper," 1940, 40 Col. L. Rev., pp. 836, 865.

[7] For some of the older statutory starting points see, James L. Landis, "Statutes and the Sources of Law," Harvard Legal Essays, 1934, p. 213. The uniform laws and modern statutes in the subjects named are too well known to require citation.

law is based directly upon the interpretation and administration of written constitutions and statutes drawn thereunder. The blind following of precedents has caused our Supreme Court in many cases to wander so far afield from the written text of the Constitution that it has been forced by the requirement of popular pressure to reverse its decisions and return again to concepts within the document and more in accord with social needs.[8] But our law schools, to date, have not yielded. So great has been the over-emphasis of the case that many of the leaders of the American Bar Association seem to be convinced that litigation is the only safe means of adjusting social interests. The now happily defunct Logan-Walter Bill is a striking commentary on the extent to which this mistaken idea has gained acceptance not only among the Bar but even in the Congress of the United States, where there is a widely-held view that all of the work of the administrative bodies of the government could be handled by litigation. Fortunately, the President, who, perhaps, was not so thoroughly grounded in the case method as were some of the proponents of the bill, knew better.[9]

A still more serious difficulty with the case method in the study of law, as a means for developing a sound basis for scientific social control, is the fact that, even in such simple matters as keeping the peace, there is no correlation between the point of view of the courts as evidenced in the decision

[8] See Mr. Justice Holmes' cryptic dissent on this point, Baldwin v. Missouri, 281 U. S. 586, 595, which will be recognized as the basis for a long line of cases reversing the policy of the court, beginning with National Labor Relations Board v. Jones & Laughlin, 301 U. S. 1 (1937); Charles C. Stewart Machine Co. v. Davis, 301 U. S. 548; and for examples of others see, United States v. Darby Lumber Co., 61 S. Ct. 451 (1941), overruling Hammer v. Dagenhart, 247 U. S. 251 (1918); West Coast Hotel Co. v. Parrish, 300 U. S. 379 (1937) overruling Adkins v. Children's Hospital, 261 U. S. 525 (1923); and see the reversal of the application of Mr. Chief Justice Marshall's dictum as often phrased, "The power to tax is the power to destroy," McCulloch v. Maryland, 4 Wheaton 316, 431 (1819); in James v. Dravo Contracting Co., 302 U. S. 134 (1937); Helvering v. Gerhardt, 304 U. S. 405 (1938); Graves v. O'Keefe, 306 U. S. 466 (1939); O'Malley v. Woodrough, 307 U. S. 277 (1939); but cf. Pittman v. Home Owners Loan Corp., 308 U. S. 21 (1939). Any student of constitutional law can suggest many others.

[9] 27 Am. Bar Assn. Jour., 1941, p. 52.

of cases and the necessary requirements for social regulation. As indicated elsewhere,[10] the courts deal only with aggravated cases of social maladjustment where the law has failed properly to balance the conflicting interests of the parties. The cases are all decided *ex post facto* and long after the results of the maladjustment have run their course. Using the case as a method for finding law that can act as a form of social regulation is, therefore, not only subject to the fallacy of arguing from the particular to the general, but also to the glaring defect that, since proper adjustment of interests would eliminate litigation, the method by which the litigation is settled usually offers no clues to the prevention of litigation in future cases.[11]

Every field of law is full of illustrations of how the accidental decision of a case has become the beginning of a long line of authority which created a rule of law wholly out of line with social conditions, and totally unable to offer any solution of similar problems in a changing society.[12] It is small wonder that a search for certainty in a field of legal thought based so completely on the accidental presence of cases in courts of law has led to the school of gastronomical jurisprudence, which would solve the problems of social adjustment by examining the judge's breakfast before he goes on the bench. Still this approach is no more ridiculous in our present state of legal development than is the process of de-

[10] See supra, note 5.

[11] For example, the problem of traffic accidents has been best solved by stop light, by-passes, traffic circles, and express highways; the industrial accident cases by safety devices and workman's compensation; criminal cases may be reduced by play grounds, recreation, and the like; illegal sale of liquor by state stores, see Shipman, "State Administrative Machinery for Liquor Control," 1940, Law and Contemporary Problems, pp. 600, 611 ff. In these and many other similar instances, generalizations from court decisions could offer no clue to the successful solution.

[12] For example: the fellow servant rule; Buller v. Crips, 6 Mod. 29 (1704), holding promissory notes non-negotiable, in negotiable paper; the doctrine of Livingston v. Jefferson, 1 Broc. Fed Cases, No. 8411 (1811) that suits for actions of trespass to real estate are local actions, American Law Institute, Restatement of Conflict of Laws 614, and for the manner in which the weight of precedent prevails over common sense in such matters see, 7 Proceedings of the American Law Institute, 1929, pp. 86–9. Any teacher of law can add numerous other examples from his own courses.

riving standards of social control from isolated litigated cases, a process that now forms the basis for courses of study in our leading law schools.

Judicial Philosophy as a Basis of Social Control

EVEN IF SOME CERTAINTY could be established by the elimination of the isolated case and a substitution of statistical study of court decisions, which is not the basis of the present case method technique, judicial philosophy is a bad foundation for a legal system, or for a course of instruction in the administration of social justice. The roots of the judges' social philosophy lie in isolation, class consciousness, conservatism, and even reaction.[13] The best the judge can offer in the way of social philosophy is usually the material that he studied when he was in school, which was nearly thirty years prior to the time of the judicial decision he is rendering. When the case in turn becomes the basis of the legal philosophy of the succeeding generation of courts and lawyers, legal thinking tends to move in a closing spiral, turning constantly in on itself in an orbit entirely out of touch with society and social needs.[14] With our rules of evidence and our court pro-

[13] The idea that the courts are the bulwarks of liberty and the defenders of the common man has been neatly exploded by Edgerton, "The Incidence of Judicial Control over Congress," 1937, 22 Cor. L. Q., p. 299.

[14] Even so liberal-minded a judge as Mr. Justice Holmes was not free from this type of thinking. See the horse and buggy standard for negligence of a driver of a truck, in the face of a verdict, in Baltimore & Ohio Railroad Company v. Goodman, 275 U. S. 66, 70 (1927). In spite of the fact that the decision of Mr. Justice Holmes, supra, was so out of line with social conditions that it excited a storm of protest and law review comment (see Index to Legal Periodicals, Jan. 1926–Sept. 1928, p. 667), mostly unfavorable, a glance at Shepard's Citations will show that this dictum became the basis of one Supreme Court decision and thirty-three decisions in the Circuit Courts of Appeal, either denying the injured plaintiff the right to go to the jury or depriving him of a verdict after the lower court had allowed the case to go to the jury. These lower court decisions not only following but extending the stop, look, and listen doctrine make interesting reading to one who would like to see "what a d——d fool a man has to make himself in order to conform to the decisions of the Supreme Court," 22 Ill. L. Rev., pp. 800–1. They are only a part of the many hundreds of other cases which have extended this foolish dictum all through the lower federal and state courts to refuse recovery in daily accidents to an injured plaintiff under facts where a sound social policy would cover the whole matter with insurance. It should be noted, however, that this outrageous doctrine only lasted seven years, when it was abolished by Mr. Justice Cardozo, one of our most socially-alert judges (in Pokora v. Wabash Ry. Co., 292 U. S. 98, pp. 104–6). If time and space permitted, similar anachronisms could be produced at random from any field of law which are still flourishing.

cedure such as they are, the judge tends more and more to operate in the rarefied atmosphere of a system carefully insulated from social control. It is small wonder, then, that a large number of the social changes that were ordered by statutes or regulations (we avoid, to limit controversy, indicating whether we think they are progressive or decadent) were declared unconstitutional when they were challenged in the courts during the last century because they were found by the judges to be "unprecedented."[15]

When the judicial decision becomes the basis of the study of law, as it has been in America during the last thirty years, it is not surprising that legal processes are of so little use in solving social problems. The continued study of law on this basis cannot meet the requirements of the new age of changing legal activity which is now upon us and will come even faster in the cleaning up of the debris of the present war. It is necessary to begin now, while our schools are being decimated to provide manpower for the military machine, to lay the foundation of courses which will offer scientific guidance to those who will return to pick up the loose ends of our shattered social system when peace finally comes.

Whether the law schools enter whole-heartedly into the task of developing their graduates to fill all the various requirements of the new profession of technicians in social

[15] For example, see Mr. Chief Justice Hughes' conclusion in Schechter Corp. et al. v. United States, 295 U. S. 495, 541 (1935); and note how the expert commission, partly because it is new, cannot be constitutionally entrusted with finding the fact of value in rate cases, see Chicago, M. & St. P. Ry. v. Minnesota, 134 U. S. 418 (1890); Ohio Valley Water Co. v. Ben Avon Borough, 253 U. S. 287 (1920); but a common law jury, largely because it is old, is held entirely competent to pass upon such technical facts, United Gas Public Service Co. v. State of Texas, 303 U. S. 123 (1938). See also Brown, "Due Process of Law, Police Power and the Supreme Court," 1927, 40 Har. L. Rev., p. 943, where the author points out that between 1921 and 1927 31 percent of all the decisions in Due Process cases were against the constitutionality of statutes. It should be noted that this was at a time when the governments of the country were, on the whole, in the hands of the conservatives. A similar percentage would undoubtedly appear from 1927–1937 when the liberals were in power. It may also be coincidence that the increase in the percentage of cases declared unconstitutional corresponds with the appearance in the courts of lawyers trained by the case method. The more liberal attitude during the last five years is accounted for by the systematic effort of the Federal administration to place the few progressively-minded lawyers available in judicial positions.

control, or merely continue to train a decreasing segment of this profession, they must re-examine the basic legal postulates and the method whereby we seek them.

The Sources of Basic Legal Postulates

WHAT, THEN, IS THE BASIS for determining legal postulates? If the cases and the traditional common law methods will not suffice as the foundation on which to build even an adequate system of "legal education," where are the law schools to turn for the basic information necessary to provide sound training for their students, either as "lawyers" or social technicians?

History has offered many starting points for legal systems. Among these have been the will of the conqueror, the arbitrary edicts of dictators, the mysticism of divine will with its closely related source, the canons of the priesthood, and the desires of a ruling class. One needs only casual familiarity with legal history to see that the failure of these sources to provide any adequate system of social regulation has been demonstrated beyond doubt. In addition to the dicta of the judiciary, which has already been disposed of as a proper source of law and postulates of social justice, there remain only three other sources which have been recognized in the past. These are received ideas of law which are held by the professional administrators of the law itself, namely the bar; the writings of legal scholars, who are always closely connected with the bar and the courts; and lastly the democratic will of the people as expressed by popular legislation.

Recent experience with legislation and ideas of justice recommended by the American Bar Association has demonstrated that, in this country at least, where the members of the bar are a group of entrepreneurs deriving their livelihood and profit almost wholly from money fees, and relying as they do upon the favor of the courts for their prosperity, the

professional lawyers are unable to look at the problems of social adjustment with that clear, unbiased, detached point of view necessary for the formulation of any practicable system of social justice.

Although the leading legal writers in the past have offered many suggestions for improvement in the machinery of justice, they have unfortunately been so saturated with the common law technique and have become so blinded by the process of collecting and tabulating cases that they lack both the social information and the perspective successfully to project a well-rounded legal system which could hope to deal with the complicated problem of achieving social justice.

This brings us to the last historical source of legal axioms which at one time or another in the history of the world has been regarded as the basis for ultimate solution of the problem, the will of the *Demos* or the systematized expression of their will by elected representatives in the form of statutes and codes. Although it may be bad politics at a time when we have an interest in a bloody conflict in its alleged defense, careful scientific method requires the questioning of the democratic will as a basis for a successful legal system. Assuming the democratic standard, that law and social control should achieve the good of the greatest number, there has been a belief that the people somehow, by collective action, could devise the basis upon which a system to achieve this good could be built. The idea is, of course, founded upon two propositions. The first is the Eighteenth Century belief in enlightened selfishness; that is, that the common man in satisfying his wants will demand those things which work for his own good in the long run and that the sum of individual good would add up to the greatest collective good. The second is the Jeffersonian dictum, "The people are always right in the end; they may make mistakes, but they themselves rectify them."

The idea of enlightened selfishness attaining the collective good was predicated upon a simple society where each person could see and understand the results of his actions both upon himself and society. Although this may have been the case in the time of John Stuart Mill, it is no longer possible today. The complication of the modern social structure is such that no single individual can pass intelligent judgment on the result of his actions upon himself or upon the whole of society. The individual is accustomed to take expert advice on comparatively simple matters pertaining to health, repair of machinery, investment, construction of houses, education, and the like. Why, then, should he expect to be able to know the answers in the most complicated of all activities, the regulation of society? The fate of France is the best illustration of the working of the doctrine of enlightened selfishness in the Twentieth Century.

The second assumption is that the collective populace are able, somehow, to reach the truth about public affairs. This is also out of line with the facts of modern society.

Unfortunately Jefferson did not have the benefit of modern psychology which shows that more than 40 percent of the people lack sufficient intelligence to get through an ordinary course in high school. Of the remaining 60 percent who perhaps can complete their secondary education, less than one-third have the ability to do college work, and only one-third of these college students can take up professional study, where about 50 percent fail before graduation.[16] Putting it another way, about one in five can even hope to go to college, and less than one in ten have sufficient capacity possibly to grasp the ramifications of the problems of govern-

[16] See Garrett and Schneck, "Psychological Tests, Methods and Results," 1933, Part II, pp. 26–39, where the author correlates the Stanford-Binet tests with the results of the Army Alpha and many other studies. The Army Alpha showed that less than 5 percent of the population has the capacity for work on a high professional level. See also Bell, "Youth Tell Their Story," 1938, pp. 51, 96; and Terman, "The Intelligence of School Children," 1919, p. 89.

ing a country such as ours.[17] In the light of these facts, it is pure nonsense to expect that any democratic will made up of the majority of feeling, votes, or approved ideas or ideals of an entire unselected population could possibly offer a working basis for regulating and adjusting the myriad clashes of interests which occur in a society complicated beyond the most prophetic dreams of Jefferson, Lincoln, or their associates. The common man in modern society is scarcely capable of determining what are his own interests and of taking intelligent steps to protect them, to say nothing of solving the problems of social adjustment for nations made up of millions of individuals with their myriad wants, ambitions, desires, and expectations. It is pure mysticism to believe that the collective judgment of a group who cannot individually understand the problem at hand can offer any real basis for its solution.

If any working system of social control in modern society is to grow out of the democratic principle of the greatest good for the greatest number, it must be predicated upon the scientific study by experts, drawn from the upper 10 percent of the intelligence level of the population. The work of this group should be to determine, first, the needs of the people in

[17] It is interesting to note that our high schools have already enrolled the capacity of the youth able, according to these figures, to do their work; 54 percent of the population of high school age were enrolled in 1930 and about 67 percent in 1936, "Statistical Abstracts of the United States," Government Printing Office, Washington, 1939, p. 108. In like manner the colleges are reaching their capacity with over 924,000 enrolled in 1930, 1,000,000 in 1936 and 1,200,000 in 1939, ibid., p. 110, p. 117, and "World Almanac," World-Telegram, New York, 1941, p. 551. This number constituted a little more than 10 percent of the people of college age in America, "Fifteenth Census of United States," Part II, Government Printing Office, Washington, 1933, p. 576. The census figures of 1930 show about 21.4 percent of people between 18 and 20 years old were in school, ibid., p. 1091, while much less than one-fifth of those between 16 and 24 years were in school. Of those who finish high school less than 300 in 1000 have the ability to go to college while only 105 out of 1000 with such ability have actually matriculated, Bell, op. cit., p. 96. This means that our colleges and professional schools are failing to reach over half of the population with the mental ability to do their work, while they are taking in large numbers who are financially able but without the mental capacity to handle college training. It is small wonder then, that less than half of those who undertake this work ever receive their final degrees, "Statistical Abstract," op. cit., p. 110. This appalling waste of our greatest natural resource, native intelligence, is a problem for government administrators and all educators, legal and otherwise.

society, and second, the means of creating effectively legal machinery which will make possible the satisfaction of those needs. What the common man cannot do for himself must be done by scientists acting as his servants, otherwise democracy will become either blind groping in the dark or a shibboleth used to drive the common men to do the will and serve the purposes of others under the guise that he is somehow helping himself. This seems to be the state in which most of our social systems now find themselves after long experiments with government by popular vote. (It should not be forgotten that Hitler came to power in Germany by using democratic forms.)

Of course, there is always the possibility that we may have accidentally hit upon a legal system adequate to our social needs, without any guiding philosophy. It is interesting to note, in this respect, that the civilization in which our founding fathers lived and from which they rationalized in creating our present legal system, was much closer to the year 1 A.D. in all of its attributes than our present civilization is to theirs.[18] The industrial revolution and all of the inventions which have abolished day and night, distance and time, which have changed the face of the earth as to make it possible for thousands of men to live in comparative comfort where before a few could exist in the most primitive squalor, have made our systems of law and government as antiquated a tool for social control as the stage coach as a means of transportation.

Just as it was impossible for the founding fathers to foresee the strain which would be put upon their governmental system, so also we are likely to find that old rules of law, except insofar as we can show scientifically that they can serve their purposes in their new surroundings, are useless for

[18] Robert S. Lynd, "Middletown—A Study in Contemporary American Culture," New York, 1929.

guidance in solving our modern problems. The doctrine of *Stare Decisis* and the laws of the Medes and Persians which changeth not cannot be long expected to regulate a society so dynamic that the latest airplane is antiquated before it can be taken off the assembly line. We must admit that juridical theories of the social and legal structure, no matter how perfect they may appear in the light of logic or on the basis of legal theory, are wholly useless unless they can solve successfully the simplest of all legal problems; namely, keeping the peace at home and abroad. Even our most widely heralded legal devices have failed to meet this most elementary test, to say nothing of the larger problem now being posed: the duty, somehow, of seeing that every man gets an economic square deal.

The new age of activity which is now upon us will demand a new type of legal-social craftsman who can rebuild the legal structure to meet the needs of today and tomorrow through a process of orderly change which will preserve to society and the deserving people in it the technical gains of the last century. This is the most gigantic task yet to challenge the intelligence of man. The penalty of failure will be to turn our modern mechanical power, chemistry, bacteriology, and all of the material of science over to a governmental intelligence which has learned little since the days of Rome. In the hands of such a government we may expect modern technology not only to wreck the social order, but eventually to destroy itself.

A New Social Science as a Basis for Legal Postulates

As has been indicated elsewhere,[19] there is rapidly emerging on all sides evidence that there are now available sufficient facts upon which there can be built a new science of human conduct comparable with the physical sciences both in the ac-

[19] See supra, note 8.

curacy of its data and in predictability of future happenings when applied to the mass actions of men. Scientific laws of human behavior, and the ability to apply them in devising man-made laws for the control of society, are now becoming a dominating force in the world. No thinking person can view the rise of the Third Reich or the developments in Soviet Russia without realizing that they are awesome examples of the use that can be made of such new social sciences to rebuild society on lines never before conceived. The men who wield these new forces, directing them to such purposes as they will, have been able to make the whole world tremble.

Under the impact of intelligently, or fiendishly if you will, directed social planning, *laissez faire* is dead in the economic world and rapidly disappearing in the political and legal spheres. Pressure groups, economic cartels, propaganda, and outright gang methods directed toward scientifically predictable ends are at large both at home and abroad. We have witnessed nation after nation torn asunder by these forces directed from within or without by men who understood their use and who have turned them to their ends. We may even now be in the process of seeing our own civilization destroyed, our own people becoming the slaves of foreign purposes, and perhaps being led to their own destruction through the unbridled operation of skillful economic blocs, propagandists, and pressure groups.

The American public administrator of today and tomorrow must understand the use of these forces and be able to devise laws to control them in the interest of what we are now pleased to call the democratic good.

One illustration will suffice to show the myriad problems which must be solved. In the most sacred field of the bill of rights, freedom of expression and action it may not be sufficient to keep the avenues of expression and trade open to

all, or even to attempt to see that all views have an equal opportunity for exposition or all intellectual wares be accorded an open market. Perhaps there will have to be an intelligent evaluation of the power of ideas which are at large in society, in a manner similar to that in which we now evaluate food products. It may be that poison ideas are more dangerous than poison foods if placed in the minds of the wrong people. It seems as possible to make experiments on what 'goods' should be offered in the intellectual market as it is to determine what should become available for the sustenance of the "inner man." Freedom of speech, thought and activity may have wholly disappeared in large parts of the world, because some of the population cannot stand the impact of certain ideas. If nervous breakdowns can be induced in men and animals by the overcomplication of life,[20] why cannot social breakdowns be produced by over-complication of ideas? Is not this the principle upon which the dictators have operated to destroy the morale of enemy countries? May it not be that freedom of expression, thought, and action is the birthright only of the intelligent few, and is it not possible that we have at hand the means of determining who these few are, and how this principle can be applied to even "democratic" government?

The government administrator, or technician, who devises the social and legal rules for the state of tomorrow can hardly escape the task of finding answers for these and many more complicated problems. To assume that we now know the answers is to act on blind prejudice and in the face of obvious evidence to the contrary which appears on all sides.

Governments of the future, whether they be despotisms or democracies, can no longer rely solely upon the will of

[20] Hilgard and Marquis, "Conditioning and Learning," 1940, pp. 280–287; Cook, "A Survey of Methods Used to Produce Experimental Neurosis," 95 Am. J. Psychiat., pp. 1259–76; Maier, "Studies of Abnormal Behavior in the Rat," 1939. Also see "Grewsome Tales for Children," Time (Feb. 17, 1941), p. 39; "Propaganda Study Used Successfully by 3,000 Schools," N. Y. Times (Feb. 21, 1941), p. 1.

individuals or of the *demos* to determine the course of their actions. If they are to succeed in regulating society for whatever ends the policy of the government dictates, their actions, decrees or laws must be promulgated only after careful study of the problems involved, and the social reactions which are likely to occur upon the enforcement of the projected regulation or action. The observation of social reactions, and the prediction of the results to follow upon a projected course of action, requires expert research by carefully organized departments which are now appearing in all types of governments. As the technique of observation and prediction develops, there will necessarily follow a narrowing of the field of what we now call policy determination; because it is obviously bad policy to attempt the impossible. This ever-widening demand for governmental technicians is likely, in the long run, to develop into government by experts both in the fields of observation and in policy making. Under the circumstances it is not a far cry to the day when the postulates of the law will rest equally upon the observation of a real, experimental social science developed under the guidance of experts.

The Necessity for Action

THIS FIELD OF HIGHLY PROFESSIONALIZED ACTIVITY, in the past, has belonged almost wholly to the lawyers, who, unfortunately, have used almost every device other than scientific method to solve the problems involved; but even so they have been forced by the very nature of their work to go further in the field than any other profession. It is no credit to the law schools that most of the progress has been achieved by groping in the dark.

Either the law schools must revise their program to meet the requirements of the field of activity which their graduates have preempted, or other schools must be created to train

the skilled government technicians of the future. The fact that we are late in starting simply intensifies our double-headed project, to create either within or outside of the law schools a new unified social science, and devise a means of using it as an instrument of social control through government and law. Since the law schools will be forced by the new requirements even of litigious practice to develop a large part of this field, they ought to undertake the entire task in cooperation with other departments of the educational institutions. If the law schools are too blind, too conservative, too stupid, or too lazy to undertake the task, it should be started at once by independent institutions.

Agrarian Revolt in Colonial New York, 1766[1]

By IRVING MARK

THE SOCIAL STRUGGLES of eighteenth century New York arose from the land system. Of these, none reached the proportions of Prendergast's rebellion of 1766 which swept through what was then Westchester, Dutchess, and Albany Counties. Since agriculture provided a livelihood for the great bulk[2] of colonial Americans, social tension generated from land hunger might have been expected between landlords and small farmers. Such was the case on the extensive estates of the Philipses, Livingstons, Van Cortlandts, and Van Rensselaers. How did this tension arise? How much pressure did it exert at its most explosive point in 1766? What heritage did the agrarian storm leave in its wake? Within the limits of this paper answers shall be given in summary form which have only recently been elsewhere made available in more extensive form.[3]

The seeds of social discontent in 1766 were sown deeply in the system of colonial land distribution. Not only did an inequitable distribution of great landed wealth, acquired at slight cost by shrewd landlords, provoke the wrath of small farmers but also the circumstances under which this land was acquired must have added to their envy. For, discerning eyes could catch glimpses of transactions that were not without taint of fraud. Huge grants were inspired by bribes,

[1] [EDITOR'S NOTE: This paper is based upon materials gathered for the author's "Agrarian Conflicts in Colonial New York, 1711–1775," New York, 1940, ($3.00), especially chapter five. This recent publication of the Columbia University Press, one of the Columbia *Studies in History, Economics and Public Law*, may be consulted for more detailed documentation and materials.]

[2] In 1763 about nine-tenths of the 1,700,000 who peopled colonial America were farmers.

[3] Mark, *op. cit.*, pp. 8–9, 16 (n. 10).

family connections, and fee hunger. Colonial governors made many of these illegal sales in violation of colonial statutes or British instructions that limited the size, or prohibited the making, of land grants. Where these limitations on the transfer of land were not boldly violated, they were subtly circumvented by the use of "dummy" grantees or of fictitious names.[4] Nor were land-hungry governors averse to these illegal and corrupt practises where they themselves were the chief beneficiaries. Vaguely defined metes and bounds, and Indian grants wrested from drunken or credulous natives afforded opportunities to the unscrupulous for swelling their landed estates. Overlapping grants and Indian claims arising from these circumstances were a source of colonial violence and litigation. From all these seeds came the bitter fruit of controversy.[5]

The scenes of agrarian uprisings were on those estates where the inequitable distribution of land grants was most starkly revealed. Such were Cortlandt Manor's 86,000 acres and Philipsborough's 205,000 acres in Westchester County; Philipse Highland Patent's 205,000 acres in that part of Dutchess which subsequently became almost the whole of Putnam County; Livingston Manor's 160,000 acres in that part of Albany County which later became the southern third of Columbia; and, again in Albany County, Rensselaerswyck's 1,000,000 acres which exceeded the total acreage of Rhode Island by over 200,000 acres.[6]

The malpractices that tainted many of the colonial land

[4] For example, Governor Dunmore in 1771 patented 51,000 acres near Otter Creek to Alexander McClure *et al.* on the day he surrendered office only to have them deeded to himself five days later; and Governor Tryon in 1772 used the names of his son-in-law, Edward Fanning, and of others to secure 32,000 acres two days later. Original Letters Patent, Engrossed in Books of Letters Patent (Land Office), XVI, 73, 75, 213, hereafter cited as Patent Books; Deeds, Including Mortgages, and Releases to the State, 1641–1846 (Land Office), XIX, 97.

[5] Mark, *op. cit.*, chap. I.

[6] Patent Books, V, 228; VI, 396; VII, 145, 237; "Philipse-Gouverneur Land Titles" (Columbia University), no. 14; E. B. O'Callaghan, ed., "The Documentary History of the State of New York," 4 vols., Albany, 1849–51, III, 615–27.

transactions affected all these estates with the possible exception of Cortlandt Manor. Thus Robert Livingston, first lord of the manor, was able to use a "stretching" device to increase his holdings. With Governor Edmund Andros' approval he purchased 2,000 acres of Mohican land on Roeliff Jansen Kill; with Governor Thomas Dongan's sanction he acquired a 600-acre Indian tract of "Tachkanick" which he was permitted to join to his other purchase to form a manor. By describing the boundaries of his grants with the Indian names of natural objects like "Mahaskakook" or "minnissichtanock where Two Black oak Trees are marked wt L," or Wawanaquassich where "Heapes of stones Lye," and by a stream like the winding Roeliff Jansen Kill, "Running back into the woods," Livingston was able to present his tracts as contiguous. Thus Dongan's patent for the manor enabled Livingston to stretch 2,600 acres of land on Roeliff Jansen Kill and in the Taconic (formerly Taghkanick) Mountains over more than 160,000 acres.[7] Small wonder that the Stockbridge Indians and their grantees and lessees subsequently challenged Livingston's title.

Similarly Adolph Philipse increased the size of the Highland Patent. He made title through a Wappinger deed to Lambert Dorland and Jean Seabrant which contained only 15,000 acres bounded "eastward into the woods . . . to a marked tree." By omitting the reference to the marked tree in his own patent, properly the eastern terminus, Philipse carried his boundary to the Connecticut River and included 190,000 acres which really belonged to the Indians.[8] Fur-

[7] "Doc. Hist. of N. Y.," III, 616, 621, 622, 624, 690–702, map opp. p. 690. N. Y. State Assembly Committee on Indian Affairs, "Report . . . on the Claims of the Mohawk and Stockbridge Indians," no. 106 (1854), p. 10; N. Y. State Assembly, "Report of the Attorney-General . . . ," no. 59 (1853); E. B. Livingston, "The Livingstons of Livingston Manor," New York, 1910, pp. 107–111. In *People of N. Y.* v. *Herman Livingston* fraud on the face of the record was denied.

[8] "A Geographical, Historical Narrative or Summary of the Present Controversy between Daniel Nimham . . . and . . . Representatives of Colonel Frederick Philipse . . . ," British Museum Lansdowne MSS, Vol. 707, fols. 25–6, pp. 4–5.

thermore, whether the Van Rensselaer claim to the region north of Livingston Manor was legitimately 20,000 or 300,000 acres hinged upon the location of "Wawanquasick," the Indian word for a "place called a heap of Stones."[9] If tenants and settlers on these grants were not moved primarily by the extravagant size, the "stretching" through vague metes and bounds, or fraud perpetrated upon Indians, they certainly were not loath to seize upon these as occasions for improving their own economic status at the expense of powerful New York landlords or speculators.

The status of eighteenth century tenants upon the manors of Van Rensselaer, Livingston, and, to a lesser extent, Van Cortlandt, and upon Philipse's patent was a basic factor accounting for their discontent. For, although feudal manors had become obsolete, their lords still retained considerable economic and political power over the tenants. Whether on the manors or on the patents, the tenants were oppressed by onerous obligations such as perpetual rents, tax burdens, or alienation fees. Moreover, they were haunted by the spectre of insecurity of tenure.[10] The landlords, who annually paid mere token quit-rents for their vast domains, were reluctant to allow even small parcels to slip free and clear from their grasp. Van Rensselaer conveyances were usually "durable leases" with a reservation of perpetual rents.[11] The rents, small for a few hundred acres though larger than the quit-rent of fifty bushels of wheat for all Rensselaerswyck, were usually paid in kind and in labor. Failure to pay entitled the landlord to enter the premises and eject the tenant. Sim-

[9] "Notes of Evidence, . . . King *against* John Van Rensselaer for an Alleged Intrusion . . . in the Rear of Kinderhook—1768" (N. Y. Hist. Soc.); "Westenhook, Reasons to Support . . . Inhabitants of Kings District . . . 1771," John T. Kempe Papers (N. Y. Hist. Soc.), Box I; C. Colden, "The Colden Letter Books," 2 vols., New York, 1877–78, II, 11.

[10] Mark, *op. cit.*, chap. II.

[11] For examples see Stephan Van Rensselaer to David Babcock, Jan. 11, 1772; to Henry Ball, Sept. 12, 1774; to Hendrick Gardenier, 1768; to Hendrick Gerse, Sept. 10, 1766. Van Rensselaer Leases (N. Y. State Lib.).

ilarly the Livingstons, who paid quit-rents of twenty-eight shillings for their vast estates, habitually conveyed estates measured by two or three lives in being.[12] The Philipses, following the same practice, annually paid quit-rents of £4 12*s.* for Philipsborough, no more than the average yearly rental for a mere two hundred acre plot in the Highland Patent.[13] Only the Van Cortlandts showed any disposition to pursue a somewhat more liberal sales policy.[14]

Neither the extant real property law nor the political mechanism for changing or ameliorating it offered any relief to the tenant farmer. For the law covered the landlord, though not the tenant, with the mantle of security of tenure. Statutes made dubious titles certain: a recording system, which was of special concern to the large landowner, kept the titles clear. Furthermore, the law of inheritance for intestacy, through entails and primogeniture, encouraged the maintenance of a landed aristocracy.[15]

This aristocracy jealously guarded its privileged status. Even the efforts of a Bellomont proved of little avail against the commanding role that the landed élite played in the preservation of vested prvileges. Of the one hundred and thirty-seven governors, councilors, assemblymen, judges, and lawyers from about 1750 to 1776, one hundred and ten, eighty per cent, were large landholders, or related to such families; six were small landowners; and twenty-one, fifteen per cent, held even smaller holdings or no land at all. Against such an array of landlord power, what prospect of improving his lot

[12] Samuel J. Tilden, "The Writings and Speeches of Samuel J. Tilden," John Bigelow, ed.; 2 vols., New York, 1885, I, 190. These were like the grants of Robert G. Livingston on May 1, 1756, to Gary Lane *et al.*; to Simon Snyder, May 31, 1758; to Daniel Bemiss, August 14, 1742; and to William Potter, Nov. 18, 1767. Gilbert Livingston Papers (N. Y. P. L.).

[13] Philipse-Gouverneur Land Titles, no. 19.

[14] J. T. Scharf, "Hist. of Westchester County, New York," 2 vols., Philadelphia, 1886, I, 95, 130, 133, 139, 178–9; E. W. Spaulding, "New York in the Critical Period 1783–1789," New York, 1932, pp. 67–8; Mark, *op. cit.*, pp. 69–71.

[15] Mark, *op. cit.*, pp. 79–84.

did the small farmer have in an appeal to executive, legislative, or judicial remedies?[16]

The lower stratum of the farming population was barred from the electorate and from the juries, through property qualifications. Indeed, even the enfranchised farmers were frequently at a loss to counteract the pressure that the landlords could exert through their pocket boroughs, which in several cases had extra representation in the Assembly.[17] In defense of their interests, the great landlords branded the aspirations of the poorer farmers as "New England republicanism"; with no less zeal did they defend the common law against the encroachment of the Crown through chancery.[18] In the face of the political dominance of the landlord, the small farmer had neither the power to shape the laws nor the wealth to sustain the expense of judicial redress. Such were the conditions which determined the phases of agrarian discontent.

The closing of all peaceful avenues forced the small farmer to resort to violent action to better his state of economic and political dependence. He seized upon any convenient occasion to improve his status. The Palatines, in the struggle for land, made the charge of bad faith the basis of their opposition to Governor Hunter in 1711 and thereafter.[19] Before and during the Rebellion of 1766 the embattled tenants of Livingston, Van Rensselaer, and Philipse welcomed revived Indian claims and rival Massachusetts titles as a means of conducting a fierce anti-rent war, in which the Cortlandt tenants joined, against their landlords. On the eve of the

[16] Within these figures large landholders will mean those owning at least 1,000 acres of land, whatever their other interests may have been. Cf. *ibid.*, pp. 88–94.

[17] These included Rensselaerswyck, and Livingston and Cortlandt Manors.

[18] Mrs. Anne Grant, "Memoirs of an American Lady," 2 vols., London, 1808, pp. 147–8, 162, 199; E. B. O'Callaghan, ed., "Documents Relative to the Colonial History of the State of New York," 15 vols., Albany, 1853–87, VII, 565; *Thomas Forsey* v. *Waddell Cunningham* (J. Holt, ed.; New York, 1764, in N. Y. P. L.); Mark, *op. cit.*, pp. 94–106.

[19] W. A. Knittle, "The Early Eighteenth Century Palatine Emigration . . . ," Philadelphia, 1936, chaps. I–III.

Revolution the New Hampshire Grant settlers used a disputed boundary as a pretext for making common cause with Yankee speculators to save their homes from New York landgrabbers.[20] Economic interest, forceful suasion, and republican principle moved even the reluctant against the absentee landlords of "monarchical" New York. Such were the phases of agrarian conflicts which provided the setting for the great rebellion of 1766.

In the period that followed the French and Indian War, the purchase of disputed Indian titles became a hopeful avenue of escape for the oppressed tenants in Dutchess and upper Westchester Counties, and on the Van Rensselaer and Livingston Manors. Indian title disputes, like boundary controversies, seemed to be occasions for deep-rooted small farmer agitation. The discontent did not confine itself to litigation. It flared into serious peasant rebellions that appeared in 1766 in disaffected areas in the eastern part of Hudson Valley from Cortlandt Manor to Rensselaerswyck.

The issue between rival claimants was first joined in the early '60's in the Philipse Highland Patent. Here the Wappinger Indians, under their grand sachem Daniel Nimham, claimed for a long time all but a small portion of the patent, the bulk of which had never been legally transferred to the patentees. The Indians sold titles to discontented Philipse tenants who either bought their land outright or became tenants on more favorable terms, usually for 999 years.[21] By 1756 the proprietors, Philip Philipse, Beverly Robinson, and Roger Morris, who derived their title from Adolph Philipse, seized the land while the Wappingers were fighting for the King and while their old men, women, and children

[20] Mark, *op. cit.*, chaps. IV–VI; M. B. Jones, "Vermont in the Making 1750–1777," Cambridge, Mass., 1939.

[21] For leases of 999 years to Benjamin Palmer, Joseph Crow, Jr., John Rider, Daniel Munroe, and Stephan Wilcox, all in 1764, John T. Kempe Papers, Lawsuits, P-R (N. Y. Hist. Soc.). See also "Protest to Follerker Dow, Mayor of Albany . . . June 30, 1766," British Museum, Additional MSS, Vol. 22, 679, fol. 17; Geographical, Historical Narrative . . . , Vol. 707, fols. 24, 26, pp. 2, 5, 6.

were at Stockbridge. By 1761 they brought ejectment suits against those who claimed land titles through the Indians.[22] When Nimham countered by appealing to the Council, Attorney-General Kempe was ordered to investigate the claim, which he reported technically deficient.[23]

In 1763 a number of Philipse tenants renounced their leases. Taking others from the Wappingers, they continued to occupy the land but refused to pay rent to those claiming the land under the original patentee. The Philipse representatives ousted them by fifteen successful suits at law. But this remedy was costly and the defendants were invariably financially irresponsible.[24] Hence on the advice of counsel the proprietors appealed to chancery on Feb. 6, 1765, setting forth these circumstances. Meanwhile, in March, another petition of Nimham presenting his claims against the Philipse representatives had arisen before Lieutenant-Governor Colden and the Council, who constituted the high court of chancery. The issue was joined and a trial held at a hearing on March 6.[25] The trial, held before a Council of great landowners indirectly interested in the outcome, could have but one conclusion.[26] Blocking the Indian efforts to prove fraud, the Council upheld the Philipse cause and took steps forceably to implement its decision.

[22] For example, *Beverly Robinson* v. *Samuel Munroe*, Philipse-Gouverneur Land Titles, no. 7. Cf. *Ibid.*, nos. 12, 13; Geographical Historical Narrative . . . , Vol. 707, fols. 24–25, 27, pp. 2–4, 7; *James Jackson ex dem Roger Morris et al.* v. *John Stiles, Edward Grey* (1761); also cases involving Seth Paddock, Samuel Birchard, Nathaniel Porter, and John Manley, Parchment Rolls in Hall of Records, New York City. See also MS Minute Books of the Supreme Court, 1756–61, p. 250.

[23] July 28, 1762, "Calendar of Council Minutes, 1668–1783," Albany, 1902, p. 459.

[24] For itemized account of expenses from Oct. 1753 down through December 1766, see Philipse-Gouverneur Land Titles, no. 20. Within these dates ejectments concerning the following have been examined (all in 1765, except where indicated): Joseph Crow, Nathaniel Robinson, Elisha Baker, Isaac Perry, Benjamin Barber, John Rabbleyea, Jonathan Paddock, Benjamin Weeks, Samuel Yates, Israel Cole, David Akins (1763), and Joe Covey, Parchment Rolls in Hall of Records, and MS Minute Book of the Supreme Court, 1762–1764, pp. 229, 349, 455. Cf. Mark, *op. cit.*, p. 132 n. 6.

[25] "Cal. of Coun. Min.," p. 467; Geographical, Historical Narrative, fol. 30, pp. 13–14. For a bundle of Kempe's material on the controversy and related matters, John T. Kempe Papers, Lawsuits, P-R.

[26] William Smith's daughter Susan married Robert James Livingston in 1747 and his son William, Janet Livingston in 1755. Livingston, "The Livingstons of Livingston Manor," p. 74.

While Nimham was pursuing his appeal to the Crown resulting in an unsuccessful retrial in 1767 before a similarly stacked court, the controversy became more extended and violent.[27] In April, 1765, the Mohicans at Stockbridge claimed Van Rensselaer land between Claverack and Kinderhook. John Van Rensselaer brought ejectment action against many of his tenants. The Indians and the settlers with Indian title, charging fraud, seemed increasingly disposed toward violence to protect their land. Furthermore, ejectment actions of Livingston against his tenants boded ill for future harmony. Moreover, the settlers on the Highland Patent refused to submit to the Philipse proprietors. The terms they were offered, which were one year leases and bonds of £1,000 to guarantee fulfillment, contrasted quite unfavorably with the 999 year leases tendered by the Indians.[28] Determined to reinstate dispossessed tenants by force, the settlers boldly advertised a meeting in November, 1765, to achieve this end.[29] The Dutchess rebels were resolved to compel their landlords to grant security of tenure and lower rents. To accomplish this they vowed, "They would stand by each other with Lives & fortunes, would not suffer any particulars of them to compound with their Landlords without the Rest."[30] Their leaders, William Prendergast, Samuel and Daniel Munroe, Joseph Crow, Stephen Wilcox, Elisha Cole, Isaac Perry, Silas Washburne, and Jacobus Gonsales, many of whom had suffered ejectments, prohibited all service of warrants on the days of their meetings and promised to rescue

[27] "Geographical, Historical Narrative"; Mark, *op. cit.*, pp. 133–5, 155–8.

[28] "Geographical, Historical Narrative," fol. 32, pp. 17–18.

[29] "Calendar of Historical Manuscripts in the Office of the Secretary of State, Albany, New York" E. B. O'Callaghan, ed., 2 vols., Albany, 1865–66, II, 759; *Weyman's New York Gazette*, September 1, 1766, hereafter cited as *N. Y. Gazette;* "Notes on July Assizes, 1766," Dutchess Co. (New York), Miscellaneous MSS. (N. Y. Hist. Soc.), hereafter cited as "Notes on July Assizes." See also relevant affidavits in John T. Kempe Papers, Lawsuits, B–F, P-R, W-Y.

[30] Testimony of Moss Kent and Samuel Peters, *King* v. *Prendergast*, "Notes on July Assizes."

any who were arrested for refusal to pay rents or for any activity in furtherance of their movement.[31]

In the ensuing conflict the small farmers desperately sought to defend what they believed was their equitable right to the land. They bitterly felt that this right, as Prendergast declared, "could not be defended in a Court of Law because they were poore therefore they were determined to do them[selves] Justice [and] that poor Men were always oppressed by the Rich."[32] Alarmed by this mass resentment, the Philipse proprietors petitioned the provincial authorities to prevent the violence threatened by the anti-rent movement. But by March, 1766, the disorder had become widespread. It engulfed upper Westchester County where tenants united and seized the land. Against the growing rebellion, Governor Moore issued a proclamation on April 2, 1766.[33]

In April, the Westchester "levellers" carried forward the crest of small-farmer rebellion. They were dubbed "levellers" because they refused to pay rent to their landlord, Van Cortlandt, until he would remedy their insecurity of tenure.[34] These tenants desired a fee absolute rather than life terms or the long term leases at low rentals that they had. In these respects they were somewhat better off than the Livingston, Van Rensselaer, and Philipse tenants. Yet, because three of their fellows had been arrested under the proclamation of April 2, a large number of them gathered and threatened a

[31] Testimony of James Dickinson *et al.*, *ibid.*

[32] Testimony of Moss Kent and of James Livingston, *ibid.*

[33] P. H. Smith, "General History of Dutchess County from 1609 to 1876, Inclusive," Pawling, New York, 1877, pp. 54–55; Oscar Handlin, "The Eastern Frontier of New York," *New York History*, XVIII (1937), p. 69; F. Hasbrouck, ed., "The History of Dutchess County, New York" (Poughkeepsie, New York, 1909), pp. 91–92. H. B. Dawson erroneously minimized the anti-rent movement to a mere "local disturbance." See his chapter in Scharf, "History of Westchester," I, 179, n. 4.

[34] Many conservatives used the expression as one of opprobrium. James and John Montresor, "The Montresor Journals," New York, 1882, pp. 362–363 *et passim*. Captain Paul Rycaut in an examination of prisoners at Poughkeepsie on October 7, 1761, observed, "By what information I could collect from the inhabitants, those of the Nine Partners are a riotous people and Levellers by principle." "Doc. Hist. of N. Y.," III, 987.

rescue from a New York City jail where the prisoners had been taken. Though the Dutchess rebels at first had shown a disposition to dissociate themselves from Westchester 'levellers," they vigorously followed their leaders in support of the movement to rescue comrades imprisoned in New York City. The Governor, alarmed by exaggerated rumors that the rebels planned to burn the city, prepared for the onslaught by summoning the militia.[35]

Even the Sons of Liberty, successful organizers of mass demonstrations against the Stamp Act, appeared to be perturbed at this militant manifestation against landlords. The keen-eyed Captain Montresor cynically noted that the Sons of Liberty were "great opposers to these Rioters as they are of the opinion no one is entitled to Riot but themselves."[36] Certainly their leaders, like John Morin Scott, who later sat in the court that condemned small farmer agitators, were more concerned with urban uprisings that reflected the colonial struggle of radical merchants, artisans, and mechanics against British restrictions, than with rural ones that small farmers aimed at the landed aristocracy.

The non-support of the Sons of Liberty must have been a grave disappointment to the rebels. For, when they went to New York City to deliver the "mob men," "they expected to be assisted by the poor people there."[37] Indeed, they liked to think of themselves as rural Sons of Liberty. Significant are the words with which Prendergast later threatened an offending magistrate: "If any person or persons offended those whom you call the Mob—& we the Sons of Liberty," he should be punished with a mud bath, a whipping,

[35] April 20, 21, 1766, "Montresor Journals," pp. 360, 361; "Notes on July Assizes." Montresor says the number was 2,000. But W. S. Coffey in Scharf, "Hist. of Westchester," I, 168, says it was 500. Governor Moore speaks of some thousands. Moore to Conway, April 30, 1766, "Doc. Rel. to Col. N. Y.," VII, 825–6.

[36] "Montresor Journals," p. 363.

[37] Testimony of Moss Kent, *King* v. *Prendergast*, "Notes on July Assizes."

and exile.[38] This was the substance of Prendergast's proclamation, issued at Kingsbridge where the rebels had gathered.

This show of bold determination was matched by the Westchester men who threatened to pull down the city homes of Pierre Van Cortlandt and of Lambert Moore unless their demands with regard to land were recognized. On May 1, a committee of six entered the city "to explain matters" in behalf of 500 comrades stationed north of the city at Kingsbridge.[39] But before the committee could act effectively, a show of military force and a stern proclamation dispersed the rebels whom they represented. The proclamation issued on April 30 offered a reward for the seizure of specifically named leaders "and other rioters, who dispossessed parties in Northcastle, Westchester County. . . ."[40]

This proclamation itself showed that the disaffection was spreading. It named three men from Dutchess County, William Prendergast,[41] William Finch, and Samuel Munroe,[42] who were actively leading poor farmers against the Philipse patentees. Furthermore the informations for riot drawn by Attorney-General Kempe in April and July named twenty-six yeomen and laborers from Cortlandt Manor in Westchester County and seven from South Precinct and Beekman Patent in Dutchess County.[43] On May 6, a proclamation offered a £100 reward "for the taking of Pendergrast, Chief of the Country Levellers and £50 for either Munro and Finch, two officers, 'en second'." Prendergast on the next day narrowly escaped capture. By the middle of May, dispatches

[38] Testimony of Samuel Peters, *ibid.*

[39] *King* v. *Prendergast*, "Notes on July Assizes"; "Montresor Journals," p. 363.

[40] "Calendar of Hist. MSS.," II, 762; "Cal. of Coun. Min.," pp. 470–1. Benjamin Randolph's affidavit, April 29, 1766, mentioned 300 assembled at Northcastle joined by several companies who were determined to rescue several persons. *Ibid.*, "New York Council Minutes, 1668–1783," 28 vols., XVI, 48.

[41] He appeared as a Philipse tenant of the Gore in 1766 residing near Pauling. At that time, he was 39 years of age. Wm. S. Pelletreau, "History of Putnam County, New York, with Biographical Sketches of Its Prominent Men," Philadelphia, 1886, pp. 653–4.

[42] He was one of the chief advisers to Nimham.

[43] John T. Kempe Papers, Lawsuits, B–F.

from Livingston Manor carried the news "that some hundreds of Tenants are also turned Levellers and are in arms to dispossess some and maintain others in their own, without rent or taxation."[44] This "levelling" tendency reminds one of the "natural rights" of the New Jersey anti-renters who contended, "No Man is naturally intitled to a greater Proportion of the Earth, than another . . ." and of the Shaysites who were urged to support those rights to which "the God of nature hath intitled" them.[45] On June 10, James Livingston, sheriff of Dutchess County, reported that John Way, arrested for debt, had been rescued from a Poughkeepsie jail a few days previously by a "mob" of five hundred which explained "that the debt was for rent which they did not approve."[46]

The local authorities seemed to be unable to cope with a rapidly developing dangerous situation. Warrants for the arrests of the leaders proved futile. On June 19, the Council advised application for military aid to suppress the disorder. The next day a proclamation was issued offering a reward for the arrest of Dutchess leaders on charges of high treason. To give it force, the same day the Twenty-eighth Regiment was on its way from Albany to Poughkeepsie. Apparently, the militia, composed of sympathetic small

[44] "Montresor Journals," pp. 364–6. Captain Montresor entered the wry note, "The alderman (Brewington) who was sent to apprehend Pendergrast, Ringleader of the country Rioters, informed the person he was the alderman and sent to seize, so gave him an opportunity of making his escape." *Ibid.*, p. 365.

[45] The New Jersey article continues, "but tho' it was made for the equal Use of all, it may nevertheless be appropriated by every Individual. This is done by the Improvement of any Part of it lying vacant, which is thereupon distinguished from the great common of Nature, and made the Property of that Man who bestowed his Labour on it, from whom it cannot afterwards be taken, without breaking thro' the Rule of natural Justice; for thereby he would be actually deprived of the Fruits of his Industry."

N. Y. Weekly Post-Boy, June 9, 1746. Cf. Eli Parsons' letter, Feb. 13, 1787, in *N. Y. Daily Advertiser*, March 6, 1787. Somewhat similar in tone is the argument of "state of nature" which the Vermonters used to confirm their right to independence. Ethan Allen and Jonas Fay, "A Concise Refutation of the Claims of New Hampshire and Massachusetts-Bay, to the Territory of Vermont . . . ," Hartford, 1780, p. 11.

[46] Testimony of Ten Broeck and of James Livingston, *King* v. *Prendergast*, "Notes on July Assizes."

farmers, was not dependable.[47] The civil authorities of Dutchess County were ordered "to dispose of and employ the troops to be sent to said county for the purpose of quelling disturbances."[48]

But still the rebellions spread. Even Connecticut was affected. In June it was rumored that "4,000 people in Connecticut entered into agreement & signed to make an equal dividend of property there."[49] This levelling movement was bound up with anti-creditor sentiment which about seventy farmers of Wallingford expressed in their petition that the County Court at New Haven give no judgments on debt actions. In this respect the Connecticut movement was strikingly different from the New York disturbances where Prendergast insisted that all debts except those for rent be paid in full though execution was to be levied upon the appraised property of the debtor and not upon his person.[50] On June 26, Harmanus Schuyler, the Sheriff of Albany County, riding with a posse of 105 men to dispossess disgruntled settlers on Van Rensselaer land who had taken Stockbridge titles and to arrest their leaders, met an armed band of sixty.[51] In the skirmish the embattled farmers were dispersed, but Cornelis Ten Broeck was killed and seven other militia wounded. The posse's opponents suffered the loss of three killed, including Thomas Whitney, one of their leaders, and many wounded, including Robert Noble, prominent in outbreaks of the previous decade, who made his escape. The survivors took refuge in Noble's house, from which they continued their resistance. In vain did the Sheriff go to Poughkeepsie to get the assistance of the troops; for when he got

[47] "Cal. of Coun. Min.," p. 471; C. E. Carter, "Correspondence of Thomas Gage with the Secretaries of State 1763–1775," 2 vols., New Haven, 1931–33, I, 95.

[48] "Cal. of Hist. MSS.," II, 763.

[49] "Montresor Journals," p. 375.

[50] "Notes on July Assizes," especially the testimony of Ebenezer Weed and of Samuel Towner; *Pennsylvania Gazette*, July 17, 1766.

[51] *The Poughkeepsie Eagle*, May 17, 1856, speaks of 200 who purchased Stockbridge titles. Cf. *Boston Gazette or Country Journal*, July 14, 1766.

there he found that they had gone off to Prendergast's home on the Philipse Patent.[52]

Meanwhile dispatches from Livingston Manor told of another uprising in which about two hundred men "marched to murther the Lord of the Manor and level his house, unless he would sign leases for 'em agreeable to their form, as theirs were now expired and that they would neither pay Rent, taxes, &c, nor suffer other Tenants." However, they were dispersed, after making dire threats, by an armed band of forty led by Walter Livingston and his son.[53]

A serious crisis had developed by the end of June. At Poughkeepsie 1,700 "levellers" appeared with firearms. Throughout the eastern Hudson Valley up to Albany, jail deliveries were reported to have occurred. Even in Wallingford, Connecticut, seventy debtor-farmers, in sympathy with the above-mentioned anti-creditor petition, entered a courtroom, declaring that no writs or processes should be issued for debt, while the Sheriff and his party stood by helplessly. In the southeastern part of Dutchess near Pawling, a band of 300 rebellious farmers had gathered around Quaker Hill in readiness to attack the regulars that had been sent to crush them.[54]

To meet this many-headed danger, the provincial authorities launched a vigorous counter-attack. At the end of June, the Twenty-eighth Regiment landed at Poughkeepsie. Under Major Thomas Brown, it engaged in a skirmish which resulted in the dispersal of the anti-renters and the capture of eight of them. The resistance to the Sheriff of Albany County on Van Rensselaer property was answered by a proclamation offering a reward for the capture of Noble. Mean-

[52] *New York Gazette*, July 7, 1766; "Doc. Hist. of N. Y.," III, 830–1; "Montresor Journals," p. 376; *Boston Gazette or Country Journal*, July 14, 1766; *Pennsylvania Gazette*, July 10, July 17, 1766; *King* v. *Alexander McArthur et al.*, "Notes on July Assizes."

[53] "Montresor Journals," pp. 375–6.

[54] *Ibid.*, p. 376. This was on June 30, 1766, *The New York Gazette: or, The Weekly Post-Boy*, July 3, 1766 (hereafter cited as *Weekly Post-Boy*); testimony of Peter Terry, *King* v. *Prendergast*, "Notes on July Assizes."

while the troops that had gone off towards Prendergast's home met at Fredericksburgh thirty armed men on their way to join him. The soldiers, with only three of their own number wounded, routed them so badly that the next day about fifty anti-renters came forward under a flag of truce. These were promptly seized as rebels and imprisoned in the nearby meeting house, over which an armed guard was left.[55] But Prendergast fearlessly continued the opposition, despite his wife's entreaties that he throw himself on the Governor's mercy. Armed with a cutlass, he vowed that he was determined to "make day Light Shew thro' " anyone who opposed him.[56] Furthermore, violently compelling a justice of peace, Samuel Peters, and his deputy to take an oath never to arrest him, Prendergast defiantly affirmed that "if the king was there he would serve him so, for kings had been bro't to by mobs before now."[57] But Prendergast was soon captured, together with seven other leaders. He was taken to a New York prison under guard of regular soldiers. This broke the back of the resistance on Philipse's Patent.[58]

These vigorous measures by no means brought quiet to the other turbulent areas. In the middle of July, reports to New York City carried stories of continued rioting in Albany County and at Poughkeepsie. A fresh detachment of 100 men from the Forty-sixth Regiment was ordered to proceed immediately with two field pieces to Poughkeepsie where the rebels had fortified a large house and entrenched themselves.[59] The Nineteenth Infantry, a company of the Twenty-sixth Regiment, with a detachment of the artillery train and three

[55] "Montresor Journals," p. 376; "Cal. of Hist. MSS.," II, 763; "Doc. Hist. of N. Y.," III, 830–2; "Cal. of Coun. Min.," pp. 471–2; *New York Gazette*, July 7, 1766; "Correspondence of Thomas Gage," II, 362–3. This is at the present site of Carmel in Putnam County, *The Poughkeepsie Eagle*, May 17, 1856.

[56] Testimony of Malcolm Morrison, *King* v. *Prendergast*, "Notes on July Assizes, 1766."

[57] The incident happened on May 27, 1766. Testimony of George Hughson, *ibid.*

[58] "Doc. Rel. to Col. N. Y.," VII, 845–6; "Montresor Journals," p. 377.

[59] *Ibid.*, pp. 377–378; *New York Gazette*, July 21, 1766, and *Weekly Post-Boy*, July 24, 1766. Both newspapers say 200 men were sent.

field pieces embarked for Claverack where the Van Rensselaers experienced disorders. Apparently the arrest and removal of Prendergast sent a wave of great excitement over Dutchess County which spread through the whole province, wherever small farmers were troubled about the security of their land titles.[60]

In the midst of this turmoil and guarded by regular troops, the Supreme Court began its sessions, sitting from July 29 to August 14. On the bench sat the chief justice, Daniel Horsmanden, and his associates, Johns Watts, William Walton, Oliver DeLancey, Joseph Reade, William Smith, Whitehead Hicks, and John Morin Scott. All of these were amongst the greatest landlords and land speculators of the colony; at least two of the judges, if we include Justice Robert R. Livingston who was present though not sitting, were related to the landlords against whom the prisoners had rebelled.[61] About sixty-five men were indicted for riotous assault, and some for the additional charge of rescuing prisoners. They pleaded guilty and were variously punished with fines, imprisonment, and pillories.[62]

Prendergast's trial, which lasted twenty-four hours, attracted wide public attention. He had been brought from New York under heavy guard to stand trial on charge of high treason. Taken before the court on August 6, the prisoner found his situation aggravated by the fact that one of the regulars had died of a wound inflicted by one of the rebel's

[60] *New York Mercury*, July 28, 1766; *The Poughkeepsie Eagle*, May 17, 1856.

[61] E. A. Werner, "Civil List and Constitutional History of the Colony and State of New York," Albany, 1891, p. 388. See above, n. 26, for Smith's relationship to Livingston. Robert R. Livingston, an associate judge since March 16, 1763, was especially disturbed by the Livingston troubles.

[62] "Montresor Journals," p. 379; *New York Mercury*, July 28, 1766; *New York Gazette*, Sept. 1, 1766; *Weekly Post-Boy*, Sept. 4, 1766. For example, Daniel Townsend, Samuel Goodspeed, Jacobus Gonsales, and Jacob Brill were punished. But many rebels were not included in this trial. Thus names like Samuel and Daniel Munroe, Joseph Crow, Jr., Stephen Wilcox, Jonathan Wright, Daniel Brundige, and William Finch keep recurring on the agenda of cases for vacations down to January, 1771. John T. Kempe Papers, Box IV. See also Kempe's Notes on the Trial of *King* v. *Elisha Cole* for High Treason, June 13, 1767, at Poughkeepsie, in which the testimony is substantially like that in the trials of 1766. *Ibid.*, Lawsuits, A-B.

followers.[63] Tension ran high throughout the country-side, since it was common knowledge that he was no ordinary criminal but a "sober, honest, and industrious Farmer much beloved by his neighbors,"[64] who had accepted leadership because "he pitied poor people who were turned out of possession."[65] Prendergast boldly conducted his own defence assisted by his wife, Mehitabel Wing, who attracted a great deal of attention. To counteract the evidence against him, "she never failed to make every remark that might tend to extenuate the offence, and put his conduct in the most favorable point of View; not suffering one Circumstance that could be collected from the Evidence, or thought of in his Favour to escape the Notice of the Court and Jury." So effective was she in advising her husband in his defence, that the prosecuting attorney moved to oust her "lest she might too much influence the Jury" by "her very Looks." The court reprimanded the prosecutor and answered that she had not spoken unreasonably and that, if the request were granted, the prosecutor "might as well move that the Prisoner himself should be cover'd with a Veil, lest the Distress painted in his Countenance should too powerfully excite Compassion."[66]

This legal indulgence was of no avail. The jury, "of some of the most respectable Freeholders," brought in a verdict of guilty with a recommendation to the King's mercy. The good wife's behavior in immediately setting out on horseback for New York to solicit a reprieve from the Governor, covering the distance of 140 miles, there and back, in three days, moved a newspaper to report that she "did Honour to her

[63] This was George Henry of the Twenty-eighth Regiment who died on August 1. *Weekly Post-Boy*, August 7, 1766; "Montresor Journals," p. 380, also pp. 379, 381; Attorney-General's opening remarks *King* v. *Prendergast, loc. cit.*

[64] The account continues, ". . . and in short, was a good Liver; but was stirred up to act as he did by one Munro, who is absconded." *New York Mercury*, Aug. 25, 1766.

[65] Testimony of Samuel Peters, James Livingston *et al.*, *King* v. *Prendergast*, "Notes on July Assizes."

[66] *Weekly Post-Boy*, Sept. 4, July 21, 1766.

Sex and the Conjugal State."[67] After several days the court pronounced its solemn sentence "that the Prisoner be led back to the Place whence he came and from thence shall be drawn on a Hurdle to the Place for Execution, and then shall be hanged by the Neck, and then shall be cut down alive, and his Entrails and Privy members shall be cut from his Body, and shall be burned in his Sight, and his Head shall be cut off, and his Body shall be divided into four Parts, and shall be disposed of at the King's Pleasure." When sentence was passed, the prisoner, though penitent, begged leave of the Court to say with considerable insight "that if opposition to the Government was deemed Rebellion, no member of that Court was entitled to set upon his Tryal."[68] This was certainly true of John Morin Scott, land speculator and early leader of the Sons of Liberty, who abetted merchants, artisans, and mechanics in the Stamp Act agitation against Great Britain, but condemned small farmers in the anti-rent struggles against landlords.[69]

Throughout the sitting of the court, the small farmers continued their opposition to the landlords. In early August, an application for more troops to suppress them was rejected because of the need of holding them in New York City to prevent Stamp Act "riots." In Philipse's Patent the soldiery fearfully pillaged and plundered recalcitrant farmers. A contemporary left a vivid description:

'Tis beyond the Power of Language to paint in lively Images the Horror! the Surprise and Astonishment of this poor distressed People on that occasion. To see their Habitations, some demolished, some robbed and pillag'd,

[67] *Ibid.*, Sept. 4, 1766; *New York Gazette*, Sept. 1, 1766. The former newspaper account refers to a directed verdict but T. Jones's ("Counsel for the King") note on the N. Y. Hist. Soc. copy denies this and other sources used mention none.

[68] "Montresor Journals," p. 384. "When the terrible Sentence was pronounced upon the Prisoner, he utter'd an ejaculatory Prayer to God for Mercy, with such Earnestness, and look'd so distressed that the whole Audience, even those least susceptible to Compassion, were melted into Tears." *Weekly Post-Boy*, Sept. 4, 1766.

[69] On Scott's reluctance to sit as judge, "Diary of Wm. Smith," July 22, 1766 (N. Y. P. L.).

and others of them invellop'd in Flames of Fire . . . to see them at once, as it had been, in an instant, deprived of all their substance for which they had laboured sweat and fatigued themselves all the Days of their Lives; and thus driven therefrom in such Hostile Manner; and to see others coming in to reap the Fruits of their Labours, to reap whereon they had not sowed! . . .[70]

The detachment sent to Claverack finally captured Noble who had previously escaped by flight. It dispossessed many inhabitants unfriendly to the Van Rensselaers and left the remainder in "tolerable Quietness."[71] Not for long was this the case, for bitterly complaining fugitives took refuge in Massachusetts and Connecticut whence they returned to continue a fierce guerilla struggle for land. Apparently Massachusetts and the Stockbridge Indians, interested in their own land claims in New York, helped the settlers continue the struggle. By the end of August General Gage reported that the tumults throughout the eastern Hudson Valley had not subsided despite his tactics of placing troops at habitations in order to compel surrender under the threat of destroying the crops. Governor Moore embarked for Albany in the hope that his presence would have a mollifying effect.[72]

The widespread sympathy for Prendergast left the Sheriff unable to secure anyone to assist in the execution of the sentence notwithstanding his advertisement that the helper "will meet with a good reward, he shall be disguised so as not to be known, and secured from Insults."[73] Perhaps awareness of this feeling induced Governor Moore to grant a reprieve on September 1, until the King's pleasure might be known, and prompted Lady Moore to send money to free all prisoners committed for sums under £30. One day after the reprieve,

[70] "Geographical Historical Narrative," Vol. 707, fols. 32–33, pp. 18–19.

[71] "Montresor Journals," pp. 380–1.

[72] *Boston Gazette or Country Journal*, Aug. 18, 1766; "Correspondence of Thomas Gage," I, 102–3; "Doc. Rel. to Col. N. Y.," VII, 849–851; *New York Gazette*, August 11, 18, and 25, 1766.

[73] The execution had been set for September 26, 1766. *Ibid.*, September 1, 1766.

a band of fifty horsemen executed a well-planned jail-break; but the prisoner, rather bravely and wisely, chose to remain imprisoned to await the result of the appeal to the King, since escape would mean loss of his property and consequent reduction of his family to poverty and want.[74]

By the middle of September the turbulance had subsided, though General Gage thought, "the Spirit of Riot was too high amongst the People, to be as yet quite evaporated." Force had its way. By October, many Poughkeepsie farms, taken from the dispossessed, were sold by the Sheriff. From Nobletown farmers came a petition to Sir William Johnson regarding the "outrageous treatment" suffered from Colonel John Van Rensselaer, through his determination to eject them from their homes. It begged Johnson's interposition in their behalf. However the landlords had been put to considerable trouble and expense. They had paid large sums for ejectment proceedings, for hiring retainers, for dining and wining army officers, and for transporting judges, attorneys, juries, and witnesses.[75] They now exacted a fearful vengeance.

The great display of force employed by the colonial government in the suppression of the rebellions of 1766 was by no means favored in all quarters. Even Colden, who was hardly sympathetic to rioters, remarked,

> I am far from justifying these riotous Proceedings, I only observe the difference of Sentiment and Zeal in this case and in others where the authority of Parliament was contemned, and the Kings authority was continually insulted, for several months together, by most dangerous Riots, without the least attempt to suppress any of them, but rather with public applause.[76]

[74] *New York Gazette,* Sept. 8 and 29, 1766; *Weekly Post-Boy,* Sept. 11 and 25, 1766; *Boston Gazette or Country Journal,* Oct. 6, 1766; *New York Mercury,* Sept. 15, 1766.

[75] Dated 1766, "Calendar of the Sir William Johnson MSS. in the New York State Library," R. E. Day, ed., Albany, 1909, pp. 338–339. The item was destroyed by the fire of 1911. Cf. "Correspondence of Thomas Gage," I, 107–108; *New York Gazette,* October 6, 1766. For example, the itemized account of charges in defense of the Highland Patent for the landlords from Oct. 2, 1753 to Dec. 6, 1766 was £2081, 18*s.* 10*d.* This included the defence against the Wappinger claims and the suppression of Prendergast's rebellion. Philipse-Gouverneur Land Titles, no. 20.

[76] "The Colden Letter Books," II, 115–116.

Colden was evidently in favor of strong measures against the merchants and lawyers in the Stamp Act riots, and could not see why vigorous action should be applied to support great landlords against the small farmers but withheld against Stamp Act rioters. Furthermore, Colden believed, "The Power of the Civil Authority alone must have been sufficient, had there not been a general Jealousy of a powerful Combination in the Courts of Justice, in favor of the extravagant Claims of the great landed Men."[77]

Somewhat similar in tone was the opinion of General Gage. Attributing the Stamp Act disturbances of 1765 to the "Rich and Most Powerfull People," he believed the anti-rent agitation was a just retribution quite in keeping with the earlier dangerous precedent.[78] Furthermore, John Watts in 1777 advised the British Government to punish rebellious landlords by inciting armed yeomen against them with the prospect of freehold estates and freedom from "vassalage." The same expedient was advised to win Ethan Allen to the British cause. "He may in my opinion," wrote a spy, "be easily tempted to throw off any dependence on the Tyranny of the Congress and made usefull to the Government by giving him and his adherents the property of all the Lands appropriated to Rebels and making that Country a Separate Government dependant on the Crown."[79]

Quite different was the warning of an anti-British writer. In a widely publicized "letter from a Gentleman . . . to his Friend in Providence," he opposed forceful repression from a standpoint unlike that of Colden or of Gage. He admonished that

> The hostile preparations, against the occupants of the lands, presages no good to the civil rights of the subject. It is not easy to be comprehended

[77] *Ibid.*, II, 456.

[78] "Correspondence of Thomas Gage," I, 95.

[79] December 24, 1778, B. F. Stevens' "Facsimiles of MSS. in European Archives Relating to America, 1773–1783," 25 vols., no. 549; *Morning Chronicle* reprint of Watts in *The Penn Ledger* or *The Weekly Advertiser*, Oct. 29, 1777 (N. Y. Hist. Soc.).

that in a dispute about property, rights of freehold or the like, where there are such numbers of those tenant . . . on one side, that they should all be so absolutely in the wrong as to deserve dragooning. . . . The Landlords . . . have appealed to the army, and have procured a detachment to vindicate their cause by cutting the throats of the adverse party. If such decisions should grow into use amongst us, it would greatly shorten law proceedings, and be the most effectual way of gaining a cause.[80]

Reluctant to call "lawful resistance against the unjust force and violence" a riot, he remarked that it was a "'very easy matter for men of wealth and power to brand with odious appellations those, whom they intend to oppress and injure." Unlike John Morin Scott, who sat in judgment to punish the anti-renters, this writer feared that forceful repression by armed troops was a dangerous precedent which might be extended to the enforcement of an oppressive Stamp Act.[81] In similar vein was the charge of "Philanthropos," in February 1768, that the tenants had been driven to violence because the law "was absolutely barred against them . . . the lawyers generally refusing to take their cause in hand."[82]

Even from across the Atlantic, the Earl of Shelburne, the Secretary of State for the Southern Department, disturbed over the possibility that New York had acted too summarily, wrote, ". . . There is room to apprehend the Sheriff of Albany may have exceeded if not his legal Powers at least the bounds of discretion." He acted favorably on Moore's recommendation of clemency by advising the King to grant a pardon to Prendergast. Prendergast returned to his home

[80] *Weekly Post-Boy*, Aug. 21, 1766.

[81] *Ibid.*; *Providence Gazette*, Aug. 9, 1766. Although no direct evidence has been found, it is questionable whether leaders like Isaac Sears or John Lamb would have taken the position that Scott took on the small farmer uprisings.

[82] (Philanthropos), "A Few Observations on the Conduct of the General Assembly of New York, for some Years Past, Addressed to the Freemen and Freeholders of the City and Province" [New York], 1768, p. 5. This remarkable brochure attacked the act of July, 1766, authorizing extraordinary expenses for troops in the field. It also opposed lawyers in the Assembly in the belief that they would reject land taxes, which were felt to be necessary to lighten the tax burden.

amidst great rejoicing and huzzas for King George, since the pardon, which was hardly expected, was considered a triumph for the occupants of the soil over the landlords.[83] Piqued by Shelburne's criticism, Governor Moore felt called upon to explain ". . . that I should have been guilty of my Duty had I refused the aid required especially in the County of Albany where the rebels had set the civil Power at Defiance, & had defeated the Sheriff at the head of the Posse of the County, by which rash act several lives were lost."[84]

With the forceful crushing of their hopes by the autumn of 1766, the rebellious settlers were faced with the alternative of accepting the terms of the landlords or of going elsewhere. Many of them, natives of New England, returned to Massachusetts and Connecticut temporarily, but eventually found their way to the unsettled region that later became Vermont, since the cheap land of their native colonies was almost entirely gone. Vermont towns like Manchester, Danby, Dorset, Panton and Poultney appear to have been settled with immigrants from Dutchess and Westchester Counties. Furthermore, the events of 1766 deflected the tide of New England emigration toward the same region. Even some of the prominent Massachusetts speculators like Oliver Partridge, John Ashley, and Governor Bernard entered these new fields for speculative ventures. Here they joined forces with the Allens, who, having acquired more than 75,000 acres with knowledge of adverse claims, subsequently made good their purchases through violent suppression of the New Yorkers, diplomatic maneuvres in the Continental Congress, and strategic dickering with Britain during the Revolution.[85] Yet despite this general trend which bore Micah Vail

[83] Shelburne to Moore, Dec. 11, 1766, which continues ". . . Royal clemency will have a better effect in recalling these mistaken People to their Duty than the most rigorous punishment." "Doc. Rel. to Col. N. Y.," VII, 879; *Poughkeepsie Eagle*, May 17, 1856.

[84] "Doc. Rel. to Col. N. Y.," VII, 910–912.

[85] Mark, *op. cit.*, pp. 175, n. 49; 197–199.

to Chesterfield, Prendergast remained in New York and Noble, after his escape from arrest, settled in Massachusetts.[86]

The cessation of active strife after 1766 by no means ended the hatred that the small farmer bore the great landlords of Livingston Manor, Philipse Patent, and Rensselaerswyck. The freeholders of Livingston Manor who had elected a representative of the Livingstons for over forty years, turned against the family in the election of 1768. Robert R. Livingston realized that his chances were slim and gave up before half of the votes had been cast. Colden states that "the general cry of the people both in town & country was *no Lawyer in Assembly*." In February 1768, "Philanthropos," expressing his sympathy for tenant victims of the anti-rent controversy, implored readers not to give their votes to lawyers.[87] Perhaps this reflected the feeling of the small farmers who felt that they had been ill-used in ejectment proceedings and during the trials of 1766. They certainly could bear no love toward a family that frequently resorted to distraints and that commonly instructed its agents to deal severely with tenants. In a typical vein, Robert G. Livingston wrote, "By no means let him stay on the place, Drive him off as soon as possible, I would rather the farm Should Stand Idle than Suffer Such a Sott to stay on it!"[88]

The political significance of this situation was great. It favored a DeLancey political land-slide in the Assembly. The Livingston family had fallen into evil days. Philip Livingston, chosen from the Manor, was rejected by the

[86] Prendergast received title to his farm in fee in 1771. On May 19, 1774, a deed granted the land in fee "in historical possession for several years past" for a consideration of £137 and quit-rent of £5, 18*s*. 1½*d*. to the crown officers and 20*s*. more. He appears to have sold his land to Humphry Slocum and to have moved to the west. His son, James, settled with other relatives near Chautauqua and founded Jamestown. *Ibid*., pp. 154–5, nn. 108–111.

[87] "Colden Letter Books," II, 168. (Philanthropos), "A Few Observations on the Conduct of the General Assembly," pp. 5–6.

[88] R. G. Livingston to Gilbert Livingston, Feb. 8, 1773, "Gilbert Livingston Papers" (N. Y. P. L.). Cf. "MS Minute Book of the Supreme Court," 1766–69, p. 624; *ibid*., 1769–72, p. 53.

Assembly in 1769 because he did not reside there. Judge Robert R. Livingston lost his seat from Dutchess in 1768, and failed to regain this seat in the election of January, 1769, it was said, "owing to all the tenants of Beekman & R. G. Livingston's voting against him."[89] Furthermore, when he was elected five times to represent the Manor he was barred each time by a ruling that made provincial office holders ineligible. Indeed, it was not until 1774 that the Livingston family sat for the Manor once again.[90]

In the decade preceding the Revolution, conditions on the Philipse Patent and Rensselaerswyck bred a disgruntled tenantry. Ejectment proceedings continued to bring hardship to dispossessed tenants.[91] A traveler in 1769 observed, "The Tenant for Life here tells me he pays to Col. Philips only £7 per Annum for about 200 acres of Land & thinks it an extravagant Rent because on his demise or Sale, his Son or Vendee is obliged to pay the Landlord one Third of the Value of the Farm for a Renewal of the Lease."[92] Little wonder that Philipse tenants sought the better terms offered in the New Hampshire Grants. In March, 1769, the farmers of Kinderhook petitioned Governor Moore to draw commissions in the militia so as not to create a presumption in favor of the Van Rensselaer claim to the area.[93] Since the words, "Regiment (for that) Part of the Manor of Renslaer that lies at Claverack," drew so many objections, these commissions were finally withdrawn.[94] So opposed to the Van Rensselaers were the farmers that in June 1769 Henry Van Schaack

[89] P. R. Livingston to P. Schuyler, Feb. 27, 1769, "Schuyler Papers" (N. Y. P. L.).

[90] E. P. Alexander, "A Revolutionary Conservative, James Duane of New York," New York, 1938, pp. 46–47; Livingston, "Livingstons of Livingston Manor," pp. 178–9, 181–192.

[91] See parchment judgment rolls in the Hall of Records, New York City; Mark, *op. cit.*, pp. 159–160, n. 134.

[92] Richard Smith, "A Tour of Four Great Rivers, The Hudson, Mohawk, Susquehanna and Delaware in 1769," Francis W. Halsey, ed.; New York, 1906, p. 5.

[93] "The Papers of Sir William Johnson," J. Sullivan and A. C. Flick, eds., 8 vols., Albany, 1921–33, VII, 678–80.

[94] Jan. 31, 1770, "Cal. of Coun. Min.," p. 480.

assured Sir William Johnson a following of seven-eighths of the population of the county if he ran in opposition for office. Before the Revolution only in Westchester County did the condition of tenure for the small farmer seem to improve.[95]

Agrarian discontent as active and virulent as has been described could not help leaving its mark on the events that followed the Declaration of Independence. In the first place, the land system and agrarian revolts affected the alignment of the small farmer with the Patriots and the Tories. Without defining precisely what all the relationships were, it is perhaps possible to sketch some of them.

The small farmers of Albany, Dutchess, and Westchester Counties, which had been the scenes of agrarian disturbances in the '50's and '60's, had a large Tory contingent.[96] Viewing all three counties, the list of judgments against loyalists show that most were against yeomen: 153 out of 267, 57 percent, adjudged in Albany County; 47 out of 65, 72 percent, in Westchester; and 28 out of 56, 50 percent in Dutchess. Furthermore, the distribution by counties of judgments against all 358 convicted small farmers of the state showed 153, 43 percent, in Albany; 47, 13 percent, in Westchester; and 28, 8 percent in Dutchess. The last two counties were exceeded only by Tryon with 81 or 23 percent of the total yeomen defendants.[97] During the last three months of 1766 two hundred and thirty-one loyalists from Dutchess and Albany Counties were sent into New Hampshire for safekeeping since the New York jails were overcrowded.[98] The

[95] "The Papers of Sir William Johnson," VII, 23–24; also VIII, 100–101; Scharf, "Hist. of Westchester," I, 178–9; Spaulding, "N. Y. in the Critical Period," pp. 67, 68; Mark, *op. cit.*, p. 160, n. 139.

[96] A. C. Flick, "Loyalism in New York during the American Revolution," New York, 1901, pp. 170–5, 179, 182, 188–9, 204. Spaulding, "N. Y. in the Critical Period," p. 120 and n. 22.

[97] All figures are drawn from a tabulation of N. Y. State, "Lists of Loyalists against Whom Judgments were Given under the Confiscation Act, 1783" (N. Y. P. L.). They by no means pretend to present a complete picture of the number and character of Tories.

[98] R. F. Upton, "Revolutionary New Hampshire: An Account of the Social and Political Forces Underlying the Transition from Royal Province to American Commonwealth," Hanover, 1916, p. 123; "New Hampshire State Papers," VIII, 475, 476.

lists of non-signers of the General Association and of Tories examined at Kingston reveal many loyalists in Dutchess, especially in Livingston Manor.[99]

When Prendergast was pardoned, the small farmers viewed the King as a shield against rapacious landlords. To what extent did this sentiment affect the political affiliations of small farmers, at least where patriot landlord families like the Van Rensselaers and Livingstons were concerned? Almost a score of Tories were found whose names and residences suggest relationship to those active in agrarian disturbances: Christian Crow, Arent and Casper M. Hallenbeck, Benjamin Noble, William Prendergrast (*sic*), Andries Rees, Thomas Robinson, John Stewart, Nathan Whitney, Hazard and Stephen Wilcox, and Jonathan Wright.[100] The toryism that was rampant in Westchester County was supported by small farmers. It is significant that there the 1766 upheaval probably hastened land reforms that gave greater security of tenure even before the Revolution. Anxious to preserve the new economic *status quo*, a considerable number of small farmers of this county embraced toryism.[101]

The Revolution abolished entail and primogeniture, both of which prevented division or alienation of many great

[99] I. Huntting, "History of the Little Nine Partners," Amenia, New York, 1897, pp. 40–45, 73–77; *Poughkeepsie Weekly Eagle*, July 8, 1876; P. Force, "American Archives," 9 vols., Washington, 1837–53, I, 1164; II, 5, 176, 304–305, 834–835; III, 466, 597–606, 608, 719; VII, 377, 360, 500, 1407; VIII, 903, 977, 991; IX, 205, 231, 241–242, 289, 468, 469; "American Loyalists Transcripts," 60 vols., in N. Y. P. L., XXXII, 549–580; XLVI, 625–628, and *passim* in Vols. XVII–XXIV and Vols. XLI–XLVI.

[100] The evidence on this suggestion is insufficient. For example, the William Prendergrast mentioned is from Cambridge District, Albany County, and not from the Philipse Patent. The point of the question has no application whatever to the Philipses, since they were Tories, as were many other great landlords like the Johnsons, DeLanceys, Morrises and Robinsons. See Mark, *op. cit.*, p. 201, n. 19.

[101] H. B. Dawson, "Westchester County, New York, During the American Revolution," New York, 1886, p. 47; Force, "American Archives," I, 802–3; II, 282, 314, 321, 644; IV, 1043, 1083–9; VI, 1152; VII, 1145; VIII, 384–5, 829, 841, 991; IX, 469; O. Hufeland, "Westchester County During the Revolution, 1775–1783," White Plains, 1926, pp. 367, 92, 101. Before the Revolution, the farmers of Westchester County "were favored as few other purely agriculturists have been favored, then or since, in any part of the world." They had productive soil, fixed tenure, moderate rentals, and proximity to the New York market. Scharf, *op. cit.*, I, 178–9; Spaulding, "N. Y. in the Critical Period," p. 68.

estates like Livingston Manor. Thus an absolute fee tail became an unconditional fee simple, and real property of intestates descended in equal parts to all the children of the blood of the deceased. Feudal obligations like wardships, fines for alienation, charges for knight's service, scutage, relief, and aids were swept away, and all feudal tenures like those held directly of the Crown or of knight's service, were made "allodial." Quit-rents were vested in the State in 1779 and their commutation allowed in 1789 by the payment of fourteen times the value of the annual quit-rent. All arrears in quit-rents up to September 29, 1783, were remitted. Manors were broken up and estates of loyalist proprietors and tenants confiscated.[102]

Yet despite these changes, the land system, propped by the constitution of 1777, was not very materially changed so far as the small farmer was concerned. Thus, though alienation fines had been formally abolished, quarter-sales in fact persisted until 1846.[103] The predominance of large-scale landowners led a shrewd foreign observer to plan a tract in 1784 "on the necessity of establishing some *Agrarian Laws* in America to prevent *Monopolies of Land*. . . ."[104] The eventual parcelling of loyalist estates in Westchester to small farmers merely continued a policy begun before the Revolution. Yet, many patriot tenants on these confiscated loyalist estates found themselves unable or unwilling to use their

[102] "Laws of the State of New York, 1777–1801," 5 vols., Albany, 1886–7, I, 173–84, 501–2; II, 191–3, 203–7, 415–6, 748–69; R. L. Fowler, "History of the Law of Real Property in New York," New York, 1895, pp. 72, 73, 79, 84; Spaulding, "N. Y. in the Critical Period," pp. 68–70.

[103] Fowler, *op. cit.*, pp. 75, 81. Many of the grievances of the anti-renters of the 1840's were the same as in 1775. T. C. Cochran, "New York in the Confederation," Philadelphia, 1932, p. 182; Spaulding, *op. cit.*, pp. 68–69, 70 and 80. For evaluations of the Revolution and land, see: A. Nevins, "The American States during and after the Revolution 1775–1789," New York, 1924, p. 444; J. F. Jameson, "The American Revolution Considered as a Social Movement," Princeton, 1926, chap. II. Jameson is in error as far as New York is concerned when he says of the land system, ". . . there had been no grinding oppressions or exactions connected with it." *Ibid.*, p. 48.

[104] Granville Sharp to Joseph Reed, August 3, 1784, "MSS. of Joseph Reed," Vol. XI (N. Y. Hist. Soc.).

preëmption right to buy back the lands and improvements in their possession and were consequently ejected.[105] Furthermore, the tenants of Van Rensselaer and Livingston in Albany and Dutchess Counties continued to complain of grievances.

In these disaffected regions, the period of the Confederation bore its heritage of hatred. During Shays's rebellion, the fear that aggrieved New York farmers would make a common cause with insurgent Massachusetts farmers prompted strenuous precautions. For, was not the small farmers' anti-rentism against New York landlords cut from the same piece as the debtor farmers' rebellion against Yankee creditors? The refugees that fled from General Lincoln's cohorts found havens in New York, Vermont, New Hampshire, and elsewhere. Indeed, border towns in New York, like New Lebanon, were reputed to be bases of operation for a counter thrust.[106] Alarmed, Governor Clinton issued a proclamation on February 24, 1787, against the "horrid and unnatural" rebellion in which he offered rewards of one hundred and fifty pounds for the arrest of leaders like Daniel Shays, Luke Day, Adam Wheeler, and Eli Parsons, and enjoined the citizens of the state against supplying arms to the rebels.[107] Furthermore, he laid the matter before the Legislature, which responded with a resolution urging him to go with all speed to the town that harbored the Massachusetts rebels, and authorizing him to call out the militia and lead them and even Massachusetts troops anywhere within the state. The Governor ordered three regiments to stand guard

[105] H. Yoshpe, "Disposition of Loyalist Estates in the Southern District of the State of New York," New York, 1939; Mark, *op. cit.*, pp. 203–4, nn. 30, 32.

[106] *The Daily Advertiser*, March 8, 1787; *New York Packet*, March 6, 8, and June 9, 1787. A letter of Eli Parsons, February 13, 1787, called upon his fellow Shaysites "to support those rights and privileges that the God of nature hath intitled you to." *Daily Advertiser*, March 6, 1787.

[107] "Proclamation of Governor Clinton, February 24, 1787," Broadside (N. Y. P. L.).

in Columbia and Dutchess Counties and hastened to Albany to await developments.[108]

Such martial vigor, together with unfriendly newspaper accounts, no doubt discouraged any expression of sympathy beyond the secret aid and comfort extended by the border towns. Indeed, as a result, the Massachusetts rebels, who were collecting their forces in the northeastern part of New York, shifted their activities to Vermont. Here, where two decades of successful opposition to New York land speculators had made rebellion respectable, Governor Chittenden, subject to great pressure from without the state, reluctantly issued a proclamation against assisting Shays's men. But armed Vermonters obligingly reduced the proclamation to a mere matter of form.[109]

Opposition to the Federal Constitution in New York was to be expected from disgruntled tenant-farmers who hated the landlords and feared the taxing and debt enforcing powers of a stronger government. The farmers, warned that "our great and rich men are still unsatisfied; they want a new plan of government,"[110] rejected Duane's efforts to rally their support in Albany County, as they did Livingston's in Dutchess. "People's minds are wonderfully poisoned," wrote Peter Van Schaack,[111] "nor do I believe there can be any anti-dote applied to the Eastward, where the ill-fated controversies about their lands make this (election) in their Idea a contest pro Aris et Focis."

[108] "Journal of the Assembly of the State of New York, 1787," New York, 1788, pp. 62, 80; "Journal of the Senate of the State of New York, 1787," New York, 1787, pp. 35–6, 48–9; Spaulding, "N. Y. in the Critical Period," pp. 150–1; G. R. Minot, "History of the Insurrection in Massachusetts in 1786," 2d ed.; Boston, 1810, pp. 146–156.

[109] *New York Journal or Weekly Register*, March 22, 1787; "Records of the Council of Safety and Governor and Council of Vermont," 8 vols., Montpelier, 1873–80, III, 375–9; J. Pell, "Ethan Allen," Boston, 1928, pp. 259–260; but *cf.* p. 262.

[110] *New York Journal*, April 29, 1788; cf. Spaulding, "N. Y. in the Critical Period," pp. 80–81, 154–5. Spaulding notes that Westchester farmers had but few grievances against their landlords. Consequently they could join them to support the Federalist cause in 1788. *Ibid.*, p. 68.

[111] To Philip Schuyler, April 3, 1788, "Schuyler Papers," no. 2179.

The agitation against Livingston and Van Rensselaer continued to simmer until the great anti-rent movement of the 1840's. In 1791 there was vigorous opposition to the auctioning of the land of evicted farmers, although the movement collapsed when the government took vigorous steps after the killing of Sheriff Cornelius Hageboom.[112] In 1795 a petition demanded an investigation of the Livingston titles on the grounds that these had been fraudulently acquired and were "oppressive and burthensome to the last degree, unfriendly to all great exertions of Industry and tending to degrade your Petitioners from the Rank the God of Nature destined all Mankind to move in, to be Slaves and Vassals."[113] In 1811 some tenants of George Clark questioned their landlord's titles. The disorder that followed brought the Legislature to contemplate relief.[114] But this was not forthcoming until after the anti-rent riots of the '40's.[115] By a constitutional amendment, an attempt was made to still the whirlwind that colonial forebears of the great landed families had sown.

[112] J. H. French, "Gazetteer of the State of New York," Syracuse, 1860, p. 242.

[113] "Doc. Hist. of N. Y.," III, 834–9, reported on unfavorably, *ibid.*, p. 841 n.

[114] These tenants were from Montgomery, Delaware, Dutchess, Otsego and Saratoga Counties. But at the same time an investigation of the Livingston title was proposed in the Legislature. E. Cheyney, "The Anti-Rent Agitation in the State of New York 1839–1846," Philadelphia, 1887, p. 22.

[115] The complaints in 1840 were aimed at traditional privileges and incidents of the manors and patents as they existed before the Revolution: distraint, mining, water and mill privileges, short leases, rent in winter when wheat was high, quarter sales, and degrading tenures. "New York Assembly Document," no. 261, April 23, 1841.

Land Tenure Problems in Venezuela*

By RAYMOND E. CRIST

VENEZUELA, LIKE OTHER SPANISH CONQUESTS, was granted by Royal decree to the Conquistadores for two or three generations, in huge manorial holdings, or *encomiendas.* The Indians already on the land were given "*en encomienda*"[1] to the Spaniards, who were to indoctrinate them with Christianity and make them loyal subjects of the king. It was true that the Spaniards were ardent Catholics with a background of 800 years' guerilla warfare against the Infidels, the Moors, but it was equally true that for these lusty soldiers of fortune the Catholic veneer was rather thin unless it could be made profitable. Gold must be made with which to return to Spain to live the life of a *Gran Señor;* if the Indians could be Christianized in the process, that was all to the good.

These original *hacendados,* with grants of land as large as some of our states, many of which, as one reads in the old land patents, had as boundaries "*hasta donde alcance la vista,*"[2] became so powerful that their families retained their estates intact, with the Indians on them, not for two or three generations, but for several centuries. In 1808 the French traveller, Depons, was struck by the pyramidal form of the agricultural set-up in colonial Venezuela: a few white owners with a base of Indian, Negro, and half-breed slaves, who received as the most regular compensation for their work "a daily ration of prayers."[3] He was shocked to find that many of them lived "naked as worms" in their squalid, stinking huts.

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[1] Literally, in charge for their protection.

[2] As far as the eye can see.

[3] F. Depons, "Voyage à la partie orientale de la Terre-Ferme, dans l'Amerique Meridionale, fait pendant les années 1801, 1802, 1803 et 1804," 3 Vols., Paris, 1806, introduction, Vol. 1.

Those whites who were not government officials, clerics, or army officers, were usually merchant-landowners. The actual work on the hacienda was done by the oppressed serfs and slaves, who were in no position to change traditional agricultural techniques.

In the area around Coro, in northern Venezuela, the descendants of the Ajagua and Jirajara Indians, who had not fought against the Spanish conquerors, were not enslaved. They, however, were obliged to pay an annual tribute, or *demora,* cash for which was secured by selling produce from their small plots, or *conucos.* To this same region many slaves escaped from Curaçao, and, as free men, cultivated tiny plots of land on the "*tierras Baldias*" or public domaine. In due time the land that they had improved was claimed by the landowner, Juan A. Zarraga; but a brilliant Negro by the name of Caridad represented the Negroes before the King of Spain, and returned with a Royal Decree (*Cédula Real*) in their favor. Thus both Negroes and Indians had a certain feeling of freedom in working their own small holdings.

About 1794 Don Juan Manuel de Iturbe, collector of the royal revenues, reinstituted the *alcabala,* or tax on all sales, no matter how small. All persons coming to Coro with something to sell had to have it appraised just outside of town and had to pay the sales tax in advance. This was especially hard on the small farmer, and led to all kinds of abuses. Sometimes their produce was confiscated outright; other times the rosaries, earrings, and even kerchiefs used as head coverings by the women were held as bond by the tax collector, until the sales were made and the taxes paid. The small farmers, both Indian and Negro, saw the handwriting on the wall. Soon the possession of their own plots of land would not be synonymous with freedom. On Sunday afternoon, May 10, 1795, the cry of rebellion was raised in the sugar mill on the *hacienda de Macanillas,* where both slaves and freemen

were gathered. The rebels, Negroes, Indians, and mulattoes, proclaimed the law of the French, the freeing of the slaves and the suppression of the onerous sales taxes. Armed only with machetes, the insurrectionists were speedily captured, shot "while attempting to escape," or beheaded without ceremony. But in July, by government order from Caracas, Iturbe was advised to proceed in the collection of taxes with more prudence and justice. The rebels paid with their lives, but the extortions of which they had complained ceased. And these rebels were the advance guard of the hosts of Bolivar, who proclaimed the emancipation of America, liberty, and fraternity.

Once independence from Spain was proclaimed, a great amorphous rural mass of land-hungry peons was ready to follow any leader who promised them land. The white-gloved Marques del Toro and the other patricians did not have the confidence of this mass. But the uncultured Boves, by merely promising the ignorant peon the land of the *hacendados,* was able to enlist them under the absolutist flag of Fernando VII. After Boves was killed, another man of the people, José Antonio Páez, was able to swing them to the side of Bolivar and the revolution, by pointing out that their victory would certainly mean the confiscation of the estates of the Spaniards. In a communication sent to the Government of Bogotá by General Méndez, Bolivar's secretary explains that the Liberator in 1816 agreed fully to the promise made by Páez to his men—he even extended it to include the whole Republican army. This was not a mere demagogic gesture on the part of Bolivar, who sincerely and energetically fought to make it a reality. The Congress of 1817 passed a law of land distribution (*Ley de Repartos*) that never went into effect. The Liberator continually asked that a sweeping agrarian reform be effected in the whole of New Granada, and was able to promulgate the law of *Haberes Militares.*

But the reform inherent in this law was nullified by the activities of speculators who bought up all the *bonos agrarios* (agrarian bonds), and sold them in huge blocks to the wealthy Creole aristocracy, who continued the manorial system along colonial lines.

All during the century of upheaval following the war of Independence the rural farm worker fought in the disastrous civil wars, mainly because he hoped to acquire a piece of land of his own. The battle cry was often enough to "make a homeland (*patria*) for the Negroes and Indians"—those still at the base of the pyramid. Only a few urban dwellers seemed to worry much about such a vague intangible thing as federalism; the rural dwellers followed Ezequiel Zamora and Martin Espinoza because these leaders promised something tangible: land.

In more recent times, the Dictator Gómez was an *hacendado* par excellence, having acquired huge estates all over the country, particularly for the pasturing of cattle. When he died in 1935 many felt that his great holdings would in some way be made available to the people; instead, to a large extent, they have been put under the administration of bureaucrats who are costing the country fabulous sums each year. And age-old farming techniques are unchanged. Many actual abuses continue as before. In the *hacienda* of Manuare the workers receive payment in counters (*fichas*), valid only for the high-priced goods in the *hacienda* store. The *Jefe Civil* of the *Distrito,* Carlos Arvelo, telegraphed the newspaper, *Esfera,* that "thousands of rural workers suffer in the living flesh the black rigors of their destiny," and that the peons on the *hacienda* of El Trompillo were "corroded and exasperated by a big Grievance"—the lack of land, seeds, and agricultural implements.[4] Ricardo Mandry, a Catholic priest, wrote in the same paper:

[4] *Esfera,* Caracas, Venezuela, Aug. 2, 1939.

Latifundismo still exists. The former critics of Gómez are the most greedy in grabbing the estates of the deceased Dictator. A very few people have been favored in the dividing up of the estates.[5]

We have visited almost all the *haciendas* of the Municipality of Tocuyito and some of Güigüe. We have talked at length with hundreds of peons and visited their huts. It would take but few words to put in motion the great mass of discontented people. When there is hunger in the stomach there is revolt in the heart.

Near the towns of Carora and Duaca some 4000 squatters had been living on government and on private land for many years. Their thriving farms tempted the greed of some great landowners, who, under the Dictator Gómez, had the ear of the government. The *hacendados* filed claims to great blocks of land and purchased them from the government for a pittance. They were not content to take only land that small farmers had settled on, thinking it to be public land; their barbed wire fences were stretched so as to include various thousands of acres not mentioned in the new deeds. The poor people who had cleared the land, built homes, and got their little farms on a paying basis, were unable to fight this sort of thing. Methodically, the absentee landlords began to dislodge the squatters—even to burning the homes and crops of some of the more obdurate ones. The farms were gradually incorporated into vast pasture lands, while the dispossessed farmers lived precariously in tiny shacks beyond the barbed wire fences, farming on shares small uncleared plots that the landlords granted them, or they left the land to seek work with the oil companies. Life was hard for those who could not leave. They rented land for only two years at a time, at a high money rent per acre, and at the end of that time had to turn it over to the owner, planted in grass. In the environs of Duaca a farmer had to pay from 4 to 6 *Bolivares* for the right to build a house, ½ *Bolivar* a year for each goat to be pastured, and 4 *Bolivares* a year for each burro,

[5] Ibid., May 12, 1939.

cow, or horse. Some landlords refused to include a time clause in their contract, and could thus without notice force the renter off the farm at any time without paying him for any improvements he had made. Naturally, under such conditions improvements were few. Upon the death of Gómez this whole mass of down-trodden peasants spontaneously arose, tore down fences, burned the pastures, and killed the cattle of the hated landlords.

The government of the State of Lara ordered an investigation of charges to the effect that more than 40,000 acres were being used by those who had no right to them. But the Federal Government intervened, and sent a subcommission of the Department of Agriculture to report on these disturbances in Lara. A report was duly written and pigeonholed; the land problem there remains unsettled.

The President of Venezuela had promised in 1936 that his Government would "survey the public lands, formulate a policy of sale and distribution of lands in the various regions of the country, and study problems relating to the *latifundio* and its dissolution."[6] Although it is indispensable that the peasants know which are public lands available for settlement, very little headway has been made in surveying them. In June of 1939 Dr. Ambrosio Oropeza, Deputy for the State of Lara, in moving that the Department of Agriculture get busy on the public lands' survey, said, "I know that in my district there are constant demands for a survey. Because there is none, powerful persons, with an appearance of legality, have got hold of great areas of land in various parts of the country. The practical result has been to increase the size of the *latifundios,* which is precisely what I think we should oppose." Dr. Oropeza, one of the largest landholders in his district, has seen with his own eyes the dead hand influence of the great manorial holdings in the development, or

[6] In his message of Feb. 21, 1936.

rather lack of it, of Venezuelan agriculture. According to the survey of 1932 in the State of Miranda about 85 percent of the cultivable land is in large estates (4,000 acres or more), in Yaracuy, 78 percent, and in the Federal District, 84 percent. This is the prevalent landholding pattern for Venezuela as a whole, except in certain parts of the mountain States of Merida, Táchira and Trujillo.

In December, 1939, a group of stock raisers in the State of Monagas, organized in a cooperative group, tried in vain to rent and manage a government-owned cattle ranch in that State, yet ranchers of the classic absentee variety, with the right connections in Cáracas, where they lived, were able to do so. Another case in point is the renting of the government-owned ranches of La Horqueta and La Esperanza in the *Distrito* Cedeño of the State of Bolivar, which embrace some 500 square miles of land. They were leased to a group of financially-powerful individuals for the sum of 10,000 *Bolivares* annually. Yet the statistics of 1936 and 1937 show that the annual income from the steers sold on these ranches is at least 15,000 *Bolivares*. The favored lessees can not only more than pay their rent each year from the natural increase of the cattle on them, but they can also exploit the rich timber resources, the oil palm trees, and the best *sarrapia*-producing region of the Venezuelan Guayana. It is absurd to talk about breaking up those *haciendas* in private hands for the benefit of the landless peasantry if the land already owned by the Government is allowed gradually to slip by sale or rent, into the hands of the *latifundistas*, or absentee landlords.

An agrarian reform does not necessarily imply violent confiscation of all privately held land, but rather a gradual dissolution of great absentee holdings, especially if they are being used uneconomically from the point of view of modern

needs and of technical efficiency. To break up into small plots those *haciendas* on level fertile ground which have already attained a high degree of efficiency in the production of sugar cane and cotton, for instance, would be not only uneconomical but anti-social. But where the small, relatively self-sufficient farmer or the market gardener could thrive, land should be available for them—particularly in a country with as much unoccupied land as Venezuela. And they must have security of tenure. Many farmers at present are settled on unused private land or on what they think is public land. But they do not plant lemon, orange, or avacado trees, or any slow-maturing crops, because experience has taught them that once any land is improved, someone will show up with a title to it and reap the benefits of their hard work. Merely making land available to the landless is not enough. They must be granted credit with which to build decent houses and to buy good implements and seeds, and they must have technical assistance in growing and marketing crops with which they have had little experience. If not, they will simply fall an easy prey to the usurer, to the storekeeper, to the *hacendado,* and again become part of the floating proletariat.

On many an *hacienda* throughout the country, people are living outside the modern money economy. They do the routine chores of the *hacienda;* they put in long hours during the coffee-picking season, for example, but are not too busy the rest of the year. They are given a plot of land on which to raise subsistence crops, and they also get a new garment occasionally, and salt, sugar, and other necessities which they cannot produce on their plot of land. But they are rather securely tied to the *hacienda* by these economic bonds and it is too much to expect that such people will begin anything new in the way of farming techniques. One man

near Mérida said that he had planted a few grains of wheat on his plot and that they did pretty well. When asked why he did not plant more, he replied, with that significant Latin American gesture of rubbing the fingers together, that he lacked *"lo principal"*—the main thing, namely, cash. And under the present set-up he will never have any cash, and never be in a position to improve, or try to improve, his lot.

If rents were generally lowered, renters could begin to save in order to raise their standard of living and to improve their farming techniques. There should be a minimum time limit in all leases so that the renter could not be summarily evicted from land on which he had spent time and money in improvements. (Gladstone had a law passed making the renter's lease in Ireland valid for a minimum of 15 years.) Fast growing crops, corn in particular, are often grown on steep, easily-eroded slopes, because of the urgent need for cash. Only with a long-term contract can a renter see that crop rotation and general improvements made on his piece of land are to his own interest as well as to the landlord's. The renter should be paid for all permanent improvements he makes on the land. At present he is taxed—he knows that improvements mean a raise in rent, either for him or his immediate successor.

Farmers, generally illiterate or barely able to sign their names, have been victimized so long that they are very suspicious of the motives of any outsider. Their usual attitude was well expressed by a man near Mérida, whose little plot of ground was being made the subject of an intensive study in land utilization. Pictures were duly taken of the tiny fields, the yoke of oxen, the house, and the family. After this was done the wife asked timidly if she might have a picture, and was told that one would be sent her husband from Caracas, where the films were to be developed. But

when the head of the house was asked to give his name, he stubbornly refused, saying, "*dar la firma es una cosa seria.*"[7] Only after it was carefully explained that what was wanted was his name, given orally and not in writing, did he reluctantly give it, and then only when urged by his wife and children. Such an attitude is the product of several centuries of dealings with shysters of all kinds: lawyers, quack doctors, usurers, and high-handed storekeeper-landlords.

There is a blind groping on the part of Venezuelan political leaders for a way out of the economic blind alley in which the country finds itself, but they have a tendency to look too far afield for possible causes and cures of its economic ills. For instance, much time and talk is devoted to exploring the (potentially) very rich area known as the Gran Sabana. But this region is in a section of the country which is remote even in terms of travel by plane. However, the valley of the Tuy River, within easy reach of Caracas by railroad as well as by a highway in good condition, could supply the capital with an abundance of cheap foodstuffs. (Tomatoes last summer cost fifty cents a pound and eggs a dollar a dozen.) But the land of this fertile valley is largely in the hands of about a dozen families, and has for generations been used as pasture for the fattening of lean steers from the *Llanos,* the great grass plains of the Orinoco Basin. These manorial holdings are family heirlooms, the incomes from which enable the owners to live in Caracas in the style to which they have always been accustomed. As long as these families continue to live comfortably from these estates, the task of trying to raise the per unit productivity of their land by the introduction of intensive farming techniques will never even be contemplated. Thus the "dead hand" influence of land concentration first fosters, then crystallizes social

[7] "It's a serious matter to give one's signature."

and economic stagnation.[8] The logical thing would be for this valley to become a market garden for Caracas, whereas cattle grazing, perhaps on artificial pastures, would be carried on farther from the capital. Logic, however, cannot ruffle this placid manorial calm; the system can be changed only through pressure from above. But these landlords are an integral and powerful part of the above.

One of the most striking examples of the reversal of pattern in an urbo-rural cultural landscape as a result of land concentration in few hands is to be seen in the environs of San Cristóbal, State of Táchira. A few families for generations have controlled almost every square foot of land for several miles in all directions from the very edge of town. The result is that all the fertile alluvial soil and the gently sloping hill lands near town are in pasture, whereas the minutely subdivided and intensively cultivated fields of the small landholders are on the less fertile and more steeply-sloping hill lands many miles from town. Except along the highway, all the produce from the area of intensive cultivation has to be transported on the backs of humans, burros, or mules, across the extensively-exploited pasturelands to the market in town. Thus the influence of the manorial land tenure system, a hang-over from the Middle Ages, still makes itself keenly felt in the economic development of a modern town and its tributary area.

Not only the low productivity of Venezuelan agriculture, but the miserable living conditions of the rural dwellers, and the social, economic, and cultural backwardness of a good three-quarters of the population have a common denominator—the *latifundio.* On the fertile alluvial soils around Lake Valencia the manorial system is being supplanted by modern planned agriculture in which expert technical

[8] This point is discussed more fully in "The Bases of Social Instability in Venezuela." Am. Jour. Econ. Socio., Vol. I, no. 1 (Oct. 1941), pp. 37–44.

management and large scale mechanization are working hand in hand, largely under the direction of the Federal Department of Agriculture. The surplus rural population must be absorbed by local industries that should be developed along with mechanized agriculture, by state subvention if necessary. The solution of the land tenure problems in Venezuela will put the keystone into its economic arch.

A Critique of Political Economy

I. Communism and the World Crisis*†

By FRANZ OPPENHEIMER

SUMMARY: Introduction. PART ONE: Utopian Communism. I, Marx, "Prisoner" of Communistic Doctrine. II, The Aim of Utopian Communism. III, Administrative Problems of a Communist Utopia. IV, Political Problems of a Communist Utopia. V, The Problem of Transition to a Communist Society. VI, The Timing of Communist Construction. VII, Familial Communism and Utopian Communism. VIII, The Communistic "States" of Antiquity. IX, Communist Theory in Religious Communities. X, Successful Utopian Experiments. XI, Utopian Communism and the Russian Experiment.

PART TWO: The Communism of Karl Marx. I, The Schema of Marx's Inquiry. II, Analysis of Capitalist Society: Value. III, Analysis of Capitalist Society: Surplus Value. IV, The Tendency of Capitalist Development. V, Unification and Simplification in the Social Economy. VI, "Socialization" within the Capitalist Order. VII, The Law of Capitalist Accumulation. VIII, Reproduction of the Industrial Reserve Army. IX, Capital Accumulation and Surplus Population. X, Land Monopoly and Industrial Unemployment.

Introduction

LONG, LONG AGO, when people in Germany still argued with other weapons than the concentration camp and the executioner's axe, a well-known professor at the University of Berlin tried to convince an old laborer that the workingman's communism was utopian. The haughty, if not perfectly grammatical reply of the venerable worker was exactly this: "Between you and I stands science." It sounds funny, this streetcorner excommunication of a scientist, but its humor conceals a very serious aspect of Marxism: the blind confidence of Marxists in the mighty book of their master, Karl Marx. "Das Kapital," was, and still is, the main source of the movement's power. Its members believe in its gospel just as devoutly as they believe that the earth revolves around the sun. They cannot judge the arguments of Marx any more

* [EDITOR'S NOTE: The first section of this essay, one of a series, makes available for the first time, in English, the chapters on Communism and Marxism in Dr. Oppenheimer's well-known German work, "Weder Kapitalismus noch Kommunismus," "Neither Capitalism Nor Communism," Jena, 1932. The tranlation and condensation are by the author.]

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critically than those of Copernicus, but they are sure that they are just as sound. Belief became creed; creed, faith; the sect became a militant church, and Marxist doctrine a religion with all its trappings, "Das Kapital" as its Khorân, dogmas, hierarchy, priesthood, intolerance and Holy War against the infidel. And its adherents became "true believers," who are, as McFee recently put it, "austere fanatics and not mercenaries, having a faith and a loyalty to a principle,"[1] the stuff of which martyrs are made. This, at least, is true for a part of the leadership and most of the rank and file.

This makes them rather likable fellows, but at the same time extremely dangerous. Not that the Marxists have the slightest chance of bolshevizing this great country: viewed from this standpoint, communism is hardly a nuisance; certainly it is not a threat. But it is a real danger for several reasons. This pseudo-scientific creed blocks inquiry into the true causes of the current crisis, thereby obscuring the way out of it. It cleaves the nation into fighting groups, disturbing the economy by useless quarrels and senseless feuds, destroying unity at a time when the strongest solidarity alone can safeguard freedom and welfare. Communism gives to all enemies of freedom and peace the arguments—or, better, the pretexts—for the introduction of reactionary sociopolitical policy, following the hoary prescription of the conservative Prussian cynic: "You must wave the red rag until the philistine believes he sees the blaze of burning cities." Italy and Germany owe their fascism and nazism to the fright occasioned by the bolshevization of Russia, and we must realize that there has been, and still is, genuine cause for fear of revolution in the decadent countries abroad. Thus the rebarbarization of Europe has one of its ultimate causes in the communist ideology.

History proves that violent repression is powerless against

[1] In an article in *The Saturday Evening Post*, Philadelphia.

movements of this kind. They pass away only with the undermining of the faith that is their soul, their vital principle. It is almost impossible to stamp out a creed founded on supernatural revelation, but it is relatively easy to uproot a creed founded on scientific errors. The great example is the Ptolemaic doctrine which was abandoned, although "evidently" the sun rises and sets after having drawn his arc around the "evidently" immobile earth.

Communism, fortunately, is founded not on revelation, but on errors that can be rooted up with relatively little effort by what logic calls "immanent" disproof, showing premises as untrue or inferences as faulty.

Karl Marx provoked such criticism tacitly and expressly. Tacitly, by employing the deductive method *more mathematico* (after mathematical fashion) which, like Euclid's geometry, aims at compelling the adversary to face a dilemma, demanding that he discover an error in the logical calculation or else confess defeat. And expressly, as, for example, in the famous quotation: "*Hic Rhodus, hic salta!*"

I am going to take up the gauntlet. I intend to prove, by applying exclusively the same method of logical reasoning, that Marx is wrong in maintaining that capitalist society is bound to evolve into communistic society "with the necessity of a natural law."[2] I shall uncover, step by step, the errors in Marx's reasoning: the untrue premises he introduced, the faulty conclusions he deduced; and, in every case, I shall identify the fallacies by their logical connotation.

[2] Cf. preface to "Das Kapital," first ed.: "We are not concerned with the lower or higher degree of development of the social antagonisms which originate in the *natural laws* of capitalist production. We are concerned with these laws themselves, with these tendencies which make headway *with iron necessity*." (p. vi.) Also: "My point of view is to apprehend the evolution of economic social formation as *a process* of natural history." (*Ibid.*, p. viii.)

PART ONE

Utopian Communism

I

Marx, "Prisoner" of Communist Doctrine

THE TASK that Marx set for himself was, in his own words, "to raise socialism from utopia to science."

He called "utopian" each of the various attempts that had been made to "solve the social question," accusing their authors, without exception, of having tried to "*invent* the coming order out of the brain," instead of "*discovering* it with the aid of the brain in the tendency of development of capitalist society itself."

Unquestionably the problem was correctly formulated. Utopian socialism was based (and still rests) on the supposition that society is a mechanism, a badly constructed contraption that must and can be recast and repaired, and even, if need be, replaced by a wholly new kind of machine. Marx knew this to be wrong; he had adopted the Hegelian conception of society as an organism, grown and developed according to natural law in the "dialectics of evolution," and not by the dictum of a political wizard. From this point of view, it appears just as impossible to construct a society as an apple-tree or a poodle. Forces from outside can influence a living organism only insofar as they are in accord with its particular tendency of development. You can graft a wild apple-tree with a refined slip because the slip comes from a tree that, itself, descends from wild apples; you can train a puppy to do certain things and to abstain from others, because wild dogs are gregarious animals, living in groups that socialize and domesticate their members to a certain extent.

Exactly the same is true of human society. You are as little able to construct or reconstruct it as you are to grow

an apple tree without planting a seed, or to change a poodle into a cat. The new society can come into being only by organic development out of the capitalist order. Socialists can do no more than remove obstacles to the process; they can—perhaps!—facilitate or even accelerate the transition to the new order, much as (this is the famous simile used by Marx) a clever midwife can facilitate and accelerate a delivery.[3] But it is utterly nonsensical to think of "building" a society like a machine.

Marx, by this methodical statement, crossed the gulf separating utopian and scientific socialism. However, he did not succeed in solving the problem he had so aptly formulated. He was too heavily handicapped. First of all, he was a pupil of Ricardo, who had handed down to him not only his achievements, and especially his method, but also his many errors. And secondly, he was a "true believer" in communism before he began studying economics. He never got rid of these "egg-shells on his beak"; he was, and remained, as his faithful pupil Eduard Bernstein wrote, "the prisoner of a doctrine." He reasoned with fixed marching orders, much as Nazi "science" does today. As Bernstein continues, he had "accepted in all its essentials the solution of the communists, realizing, however, that their means and proofs did not suffice."[4]

In this regard he shared the opinion of the enlightened group to which he belonged during his years in Paris. The great hearts and brains, who had devoted their lives to seeking the solution of the great enigma, deeply despised utopian communism. Earlier, Fourier had denounced the "levelling mania" embodied in the communistic experiments of his contemporary, Robert Owen.[5] Proudhon had addressed the

[3] "A society can shorten or alleviate the throes of birth." Marx, *op. cit.*, p. viii.

[4] Edouard Bernstein, "Die Voraussetzungen des Sozialismus und die Aufgaben der Sozialdemokratie," Stuttgart, 1899, p. 177.

[5] Gide et Rist, "Histoire des doctrines economiques," Paris, 1909, p. 269 note.

communists in his theatrical manner: "Give way, your presence is to me a stench, and I loathe the very sight of you." He wrote in his "Contradictions économiques": "Communism is nothing, never was anything, and never will be anything." He charged Louis Blanc with having "poisoned the workmen with absurd formulas," and characterized this petrel of proletarian revolution charmingly: "He means to be the bee of revolution, and is but its cricket."[6] Finally Lorenz Stein, the most important European sociologist, beside Marx, at that time and the fellow-pupil of Hegel, speaks of the communism of the forties, of this socialism of the wandering journeymen with that same smiling contempt with which August Bebel called anti-semitism "the simpletons' socialism." Stein, however, esteemed highly the non-communistic schools of French socialism: that of Considérant, the disciple of Fourier, Bazard and Enfantin, pupils of St. Simon, and especially that of Proudhon.[7]

Marx could not but share this opinion as to the "means and proofs," but he undertook to justify the goal: communism. Hence his task, his *thema probandum*, was determined:

To prove, by the method of Ricardo, that it is the tendency of capitalist evolution in its dialectics, unfolding according to natural law, to develop into communism, by removing the obstacles now insuperably impeding its immediate realization.

This is the key to his theory. We have to consider, therefore, the theory of utopian communism and the objections that have been, and can be raised against this day-dream.

Two questions suggest themselves at the outset. First: what is this movement aiming at? Secondly: why does it aim at this precise goal? What reasons impel the leaders to brave the road through chaos, death and perdition? Where do they get the courage to accept the awe-inspiring responsi-

[6] *Ibid.*, p. 339.

[7] Lorenz von Stein, "Geschichte der sozialen Bewegung in Frankreich," ed. by Gottfried Salomon, Munich, 1922, Vol. I, p. 115.

bility for the life and welfare of those who follow them so willingly; and even of those whom they are dragging along, against their will, on their dangerous adventure? For, undoubtedly, most of the spiritual leaders are (or were) well-meaning idealists who believe that their high aim, redemption, sanctions even the most atrocious means.

II

The Aim of Utopian Communism

THE GOAL of utopian communism is to shape a social economy without competition. This is what is common to all the numerous types of utopian communism, a group of systems that differ from one another in the economic means they seek to use and in many minor traits of the schema. From this common foundation all the main lines of the set-up are derived with logical necessity.

In the present-day economy, competition is the power that regulates the production and the distribution of goods. It attracts materials and labor into those branches of production where favorable prices show that the social demand is not completely satisfied—and repels materials and labor from branches where unfavorable prices show that social demand is more than satiated. Competition, at the same time, regulates distribution, by assigning to every producer an income proportionate to his "productive contribution," either as labor performed or as monopolistic property put at the disposal of the working members of the community.

Competition appeared to the haters of capitalism to be the fiend to be annihilated. It was condemned (although it never had enjoyed a fair trial) even by such a genius as Plato, who gave initial impetus to communistic thought and dominated it through more than two thousand years of development. The question was never asked whether competition, as it was practiced in capitalist society ("dog-eat-dog com-

petition"), is not itself a symptom of a hidden disease of the social body.

To remove this great "governor" of the economic mechanism is to introduce an economy without market and money, or, to use a popular expression, to introduce "production through and for society." The collective need of goods and services is to be met by giant undertakings, owned and managed by the state, and conducted by officials. Production is to be carried on according to a preliminary budget that the statistical board has established. Distribution is likewise to be performed by magistracies in accordance with one of the three possible principles: either equally per capita; or "to each according to his needs"; or, finally, according to the quantity of labor performed for the community. This would obviously involve the introduction of compulsory labor for certain classes as to age and sex. Another consequence would be that the personal note of taste in consumption could not possibly be taken into account to any great extent. Also, and finally (to omit certain considerations of minor import), the function of money and its substitutes would shrink to a negligible rôle, if it did not disappear altogether. If a "measuring rod of value" continued to exist at all, it could be nothing but a kind of certificate recording the expenditures of a certain kind of labor in terms of exertion and duration, i.e., a "labor-money" in labor notes. This, however, would be needed only in those schemes that plan to distribute goods and services according to labor performed, not in those distributing goods per capita, or according to need or desire.

The objections against this scheme, to a large extent, are familiar. Completely invalid is the famous objection derived from the assumption of the inescapable obligation to work: that such a future State would be an immense jail or work-house. The bulk of the population in capitalist society is living under worse conditions than those proposed.

If the hopes of communists were to be realized, they would work shorter hours in more agreeable environment, under kindlier foremen, at less risk of life and health; they would be rescued from the eternal dread of unemployment, and, the communists maintain, would enjoy consumers' goods of much better quality in much greater quantities. Hence the revolution would not commit the overwhelming majority to jail. Rather would it deliver them from the jail in which they are now imprisoned as "lifers"; imprisoned, that is, not by legal compulsion, but by the threat of the "whip of starvation."

Compared with these advantages for the great mass of the population, the fact weighs like a feather that this commitment to compulsory labor would also affect the members of the present-day dominating class, except for such members who would be exempted on account of advanced age, and for those already engaged in useful work. No communistic State would put a physician behind plow or lathe by design.

Concerning the uniformity of consumption, it must be said that this could hardly be called an objection at all, if only the promised distribution of more and better means of gratification were realized—which would not be improbable. The plan provides for enterprises so enormous and so thoroughly standardized and specialized as to create, in spite of shorter hours and less exertion, a much greater social produce than is realized at present from the chaotic, relatively small and feeble present-day undertakings, which, by competitive struggle, are prevented from attaining the optimum scope and specialization. Moreover, in the syndicates, trusts, etc., they must drag along numerous maladjusted, obsolete, or unfavorably situated firms of submarginal productiveness. Uniformity of consumption, therefore, would mean equal enjoyment of much higher comfort for the lower class, which is living today in the ugly uniformity of want, and often

even of destitution. They dwell in the uniformity of trash, of makeshifts and substitutes. Their tenement houses, apartments, furniture, and men's clothing are almost identical; and the fashions of the higher strata, which the females of the lower so eagerly imitate, are not exactly flowers of fine culture. It appears perfectly feasible to set up a budget to cover costs of living which is generous enough to gratify all justified shades of taste. It would be no catastrophe if some goods proved unsaleable, while unexpected demand for other commodities required their production in greater quantity than had been foreseen.

III

Administrative Problems of a Communist Utopia

THE ADMINISTRATION of a communist utopia presents more serious problems. The first concerns the selection, the position and the behavior of the leaders. In such a free democracy the leaders, unquestionably, would be chosen by election. But, once elected, they would wield an unheard-of power, because they would control not only the political but also the economic life of all citizens. It is not easy to conceive of an electoral system capable of finding the best man, or at least a good one, for every job. The candidate for political office can demonstrate to great mass-meetings his oratorial prowess, his faculty of visioning great aims and showing the ways to attain them, but candidates for management of the central statistical board or the central transport organization or one of the giant plants must have qualities that no mass-meeting can estimate and that, precisely, cannot and would not be exhibited by their possessors at mass-meetings.

For all that, let us assume that an ideal system of election were discovered. Nevertheless, there remain still other, and very serious problems of public administration to be solved.

First, it is difficult to understand how such a huge State

administration could be managed without a superabundance of documents and reports and an elaborate system of correspondence between the different executive committees and boards. The responsibility of the leaders would be even greater than that of the highest administrators of today, because political misadventures and maladjustments at present are seldom noticed, except by experts, until their consequences prove catastrophic. But economic mistakes affect the population immediately in its most sensitive spot, in its daily necessities. The attempt to avoid such misadventures, therefore, would be the serious occupation of all officials, and this would bring about a process of reserving the adoption of momentous policies to assemblages of the top affected administrators in council. This, in turn, would pre-suppose regular intercourse among the different head-offices, entailing the most complicated "red tape." These brakes would be strong enough to paralyze the entire mechanism, a consequence which is certainly much less tolerable in economy than in polity. The life of the commonwealth goes on even if an urgently-needed reform of the diplomatic service or of the legislature is delayed for years and years. But the people will suffer bitterly if the production of goods is not immediately adapted to varying conditions, as, for instance, a bad harvest.

This objection, however, is still not decisive. We can imagine a plan of operation established that would suffice without too much of strain even under the most unfavorable conditions.

A more deplorable consideration is that such a system and its "red tape" would tend to demoralize the leaders, dulling their sense of responsibility, because no individual would have final responsibility. Every one would endeavor to shift responsibility, (to "pass the buck"), and ultimately this would be saddled on the impersonal "government." At the same time the leaders would become less qualified to fill their jobs,

because the system, with its irresponsibility and the enormous "red tape," would rob the best men of their best faculty, brisk initiative and daring resoluteness. And this would threaten a halt to economic progress, which has hitherto been promoted mainly by enterprising "captains of industry" acting on their own account and at their own risk. Initiative and daring frequently would prove a liability rather than an asset to the official. He wastes his vitality by attempting, usually in vain, to carry along his colleagues and superiors; he makes himself unpopular as an "unruly fellow" and a "place-hunter," risking friction, enmity, even loss of his job. Strong initiative, for this reason, would have scarcely a chance to survive under such a system. It would lead neither to a large income nor to gratification of the "instinct of workmanship," that creative spirit which especially motivates the great entrepreneurs, with far more compulsion than the instinct of acquisition.

The danger is undeniable, that this, the strongest of all forces of progress, might be crippled; and that the public servants of the communistic State would know no higher ambition than that of the efficient engine-driver—to cover the distance punctually to the second with as low a consumption of fuel as possible.

However, even this is not a decisive objection. Technical progress might slow down, the output of the entire machinery might be less than it would be if all the forces and values of personality were unfettered. Still, a wealthy nation could bear it, and it would be only a slight weight in the scale of judgment compared with that of the arguments against capitalism. Nevertheless: the loss would involve more than a small percentage of the total of potential production. It would involve personality values, qualities of leadership. The national character, compared with the attainable ideal, would be impoverished.

(*Continued*)

The Rate-Making Function of the Civil Aeronautics Board

By HAROLD J. KING

A. Introduction

ALTHOUGH THE DOMESTIC AIRLINES of the United States receive approximately two-thirds of their combined revenue from passenger business,[1] the rate-making activities of the Civil Aeronautics Board have thus far been confined almost entirely to mail business. It seems logical that the Board must soon devote more of its energy to the regulation of the charges made for the type of business which provides the domestic airlines with their greatest revenue.[2] Although the Board is also charged with rate-making functions in connection with the foreign air transport service of the United States, this article will be confined to a consideration of the domestic business. The problems of the domestic service differ markedly from those of the foreign service.

Prior to the air mail contract cancellations in February, 1934, air mail legislation and Post Office Department policy had definitely encouraged the use of passenger carrying equipment by the air mail carriers. The companies with the biggest and best passenger equipment were the ones most likely to receive the best mail contracts. Passenger revenue was of secondary importance. The domestic lines, as a group, were receiving about two-thirds of their revenue from the Post Office.

As the new low rates for air mail pay[3] were fixed in accordance with the

[1] During the year 1940, American Airlines, Inc., received more revenue from passengers than any of such railroads as the Chicago & North Western; Baltimore & Ohio; Illinois Central; Southern Railway; Chicago, Burlington & Quincy; Chicago, Rock Island, & Pacific; Chicago, Milwaukee, St. Paul & Pacific; and the Atlantic Coast Line. The passenger revenue of the entire domestic airline industry in 1940 amounted to 91 per cent of that received by the Pullman Company.

[2] One result of the lack of such surveillance was illustrated by the present writer in an editorial, "Airline Passenger Fares," appearing in the *Journal of Air Law and Commerce*, July, 1941, pp. 256–9. It was pointed out that one could purchase two round-trip tickets, one between Chicago and Salt Lake, the other between Salt Lake and Los Angeles, at a combined cost which was less than the round-trip fare between Chicago and Los Angeles. This situation has been rectified. In fairness to the Board, it must be stated that it has assisted in the informal adjustment of many obvious inconsistencies in passenger rates. The writer believes that the Board has neither presented a basic theory of air-passenger fares nor systematically endeavored to prevent the creation of inconsistencies in such fares.

[3] The domestic lines received an average of 54 cents per plane-mile for mail pay during the fiscal year 1933. Since the cancellations, this pay has been slightly more than 30 cents per plane-mile on the average, in spite of the larger equipment operated.

Air Mail Act of 1934, it became apparent that if the transcontinental lines were to prosper, they would have to expand their passenger business decidedly. The only other possible source of larger revenues, air express, did not appear very productive.

Hence, from 1934 through 1937, the leading carriers made tremendous strides in advancing their passenger business. Luxurious equipment was introduced, including sleeper planes; the number of route-miles was increased, and a greater frequency was effected in most schedules.[4]

As long as passenger business was second to air mail in revenue-producing importance, the air mail carriers did not have to worry too much about competition from non-air mail carrying companies. Their air mail contracts, or route certificates, served as adequate franchises in most cases. Experience had shown that very few non-mail carrying airlines could compete successfully with those holding mail contracts. Ever since the reduction in mail pay, in 1934, however, the domestic lines, as a group, have received their greatest revenue from passenger business. As the relative importance of passenger business continued to increase from 1934 through 1937[5] the larger air carriers became more and more insistent upon some assurance that the passenger business they were striving so hard to build up would not be taken from them in the near future by indiscriminate competition.

The Bureau of Air Commerce licensed aircraft and airmen, including pilots, mechanics and parachute riggers, and set up various airline and airway safety regulations. The Post Office made various specifications for air mail carriers. Any company, however, which met the safety requirements for the operation of aircraft enforced by the Bureau of Air Commerce, and which had made satisfactory arrangements for terminal facilities, could legally operate an airline on the government airways between any points it chose and make any charges it desired for passenger or express service. Air mail carriers, too, could operate passenger and express routes that were independent of their mail operations, and were at liberty to make any charges they desired for the carriage of passengers or express on all routes, whether or not mail was involved. Under such competitive conditions government protection of the public against excessive airline passenger

[4] The domestic route mileage increased from 27,812, as of December 31, 1933, to 31,084, as of December 31, 1937, while the revenue plane-miles flown on the domestic lines increased from 48,771,553 during 1933, to 66,071,507 during 1937. Passenger-miles flown (revenue and non-revenue) on these lines increased from 173,492,119 for the year 1933, to 476,603,165 for the year 1937. *Civil Aeronautics Journal*, July 1, 1941, pp. 160–1.

[5] See Table 1.

TABLE 1.—*Operating revenues for all domestic air carriers for the fiscal years 1935 through 1940*,† (in thousands of dollars)*

Operating revenues	Fiscal year ended June 30					
	1935	1936	1937	1938	1939	1940†
Passenger	12,712	17,908	21,708	23,382	28,300	43,587
Express	512	805	1,201	1,215	1,438	1,808
Excess baggage	172	230	272	298	293	444
Other nonmail revenue	732	869	840	509	665	636
Total nonmail revenue‡	14,128	19,811	24,021	25,405	30,696	46,474
Mail revenue	8,837	12,178	13,166	14,742	16,811	18,536
Total revenue‡	22,965	31,989	37,187	40,146	47,507	65,010
Ratio of nonmail revenue to total revenue (percent)	61.52	61.93	64.90	63.28	64.61	71.49

* Civil Aeronautics Authority, Second Annual Report, 1940, U. S. Government Printing Office, Washington: 1941, p. 39.

† This table does not include statistics of nonmail air carriers except for the fiscal year 1940, in which year such statistics of the nonmail air carriers, Marquette Airlines, Inc., and Wilmington-Catalina Airline, Ltd., are included. The statistics shown represent the results of a comprehenisve study that has recently been completed, based on latest audits covering the fiscal years 1935–40, inclusive. They reflect several corrections made in the statistics shown in the previous annual report. Among the causes of these corrections are retroactive determinations concerning air-mail compensation, depreciation methods, etc.

‡ The rounding off process causes an apparent, but not a real, discrepancy in some of the totals.

fares and express charges was unnecessary. It was claimed, however, that if an ever-increasing flow of capital funds was to be devoted to the development of air transportation, investors would need more assurance as to the future of airline companies. One purpose of the Civil Aeronautics Act was to furnish this confidence. The act provided for the granting of permanent franchises (certificates of convenience and necessity) to the airlines.

Competition for passenger business had become keen during the period from 1934 through 1937. The advertising programs of some companies cast reflections about the risk of traveling on the lines of competitors. This worked to the detriment of the entire industry. When one company would cancel a flight because of adverse weather conditions, it was apt to find a competitor, with less regard for safety, accepting the passengers turned away by the former, and flying through the storms. Passenger fares were sometimes cut without regard for operating costs, and a considerable amount of free transportation was given to non-airline employes.

Through the provisions of the Civil Aeronautics Act of 1938, the airlines received the desired relief from cut-throat competition and the assurance that their passenger business would not be taken away from them by indiscriminate competition. This act prohibits the operation of any airline without a certificate of convenience and necessity issued by the Civil Aeronautics Board (or its predecessor, the Civil Aeronautics Authority), provides for the regulation of passenger fares and express charges made by the airlines, provides for the determination of "fair and reasonable rates of compensation for the transportation of mail," and prohibits "any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation."

In spite of the growing relative importance of passenger revenue in the composite picture, most of the smaller airlines still receive the greatest part of their income from the Post Office. This situation, together with the fact that mail revenue is still very important, in the absolute, to the largest airlines,[6] causes more effort to be devoted to theorizing about air mail rates, than about passenger fares, not only by the Civil Aeronautics Board but also by the airlines themselves. Mail pay theories lend support to requests for increased mail pay.

Several of the airlines have submitted to the Board proposed air mail rate formulae, and it may be presumed that each of these contains an element of bias. The Board itself is fully aware of the difficulty of determining "fair and reasonable rates of compensation for the transportation of mail by aircraft" toward the end that there shall be encouraged and developed "an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense." As an appendix to the Continental Air Lines rate decision, released on May 21, 1941, the Board presented two proposed rate-making plans. These did not necessarily represent its views but were "set forth for the purpose of provoking critical comment."[7] These two plans, as well as some proposed by the airlines themselves, seem to introduce complications without approaching the heart of the issue, i.e., they do not consider passenger fares except indirectly.

[6] For the fiscal year ended June 30, 1940, American Airlines reported "Net Revenue from Operations" as $2,552,515.57. For the same year that company reported a mail revenue of $3,846,357.26. It seems possible that this company could show a modest profit without any mail income, if it were freed from the costs of transporting the mail and from the necessity of scheduling departures to conform to the wishes of the Post Office. This possibility, however, is of academic significance only, as it is practically certain that such an important carrier would not be freed by the government from the task of carrying the mail.

[7] *Civil Aeronautics Journal*, June 15, 1941, p. 150.

B. Mail Rates

THE CIVIL AERONAUTICS BOARD may, upon its own initiative or that of the Postmaster General or an air carrier, fix from time to time "fair and reasonable" rates for the transportation of mail by aircraft. The act specifies that in the determination of such rates due regard shall be given to the need of each "necessary" airline for sufficient revenue (from all sources) to enable it, under honest and efficient management, to perform the services required and to contribute to the development of air transportation to the extent required by the commerce, Postal Service and national defense of the United States.

When the Civil Aeronautics Board finds that air mail service on certain schedules over a given route is "necessary" according to the definition in the act, the Board's next responsibility is to see that it is possible for the airline company to obtain "adequate" revenue (from all sources) to make operations over the designated route attractive from a profit standpoint. This obliges the Board to experiment with different formulae for fixing mail pay so as to achieve economical operation and satisfactory earnings. The act gives the Board wide latitude for the development of such formulae. The Board may prescribe, for each air carrier or class of air carriers, a method or methods for the calculation of mail pay involving aircraft-miles, pound-miles, weight, space, or any combination of these, or a method involving none.

The simplest formula for the calculation of mail pay could be stated in terms of amounts, instead of rates. For example:

Let "E" represent estimated total expense assignable to "necessary" schedules on a designated route for, say, one year.

Let "P" represent an amount of profit on such schedules for one year adequate to interest private investors.

Let "N" represent estimated total non-mail revenue on these schedules.

Let "M" represent appropriate amount of pay for mail carried on these schedules.

$$\text{Then } M = E + P - N. \quad (\textit{Formula No. 1.})$$

Suppose it appears that it should cost[8] the operating air line about $2,000,000 during a given fiscal year to operate schedules designated "necessary"; that revenue from passengers, express and other sources probably will amount to about $1,500,000 for the same period; and that $100,000 should be an adequate amount of profit upon the investment in the route to inter-

[8] The term, "operating expenses," in airline literature ordinarily includes fixed as well as variable costs.

est private investors. Then the amount to be allowed for the carriage of the mail would be $2,000,000 plus $100,000 minus $1,500,000, or $600,000.

The complexity of more detailed formulae does not change the purpose of the air mail payment, which is shown in the above formula. When mail pay is stated in terms of rates, the problem is reduced to one of estimating which rate multiplied by which base will yield the appropriate amount of mail pay. The formula, expanded, thus becomes:

$$M = R \times B = E + P - N. \quad (\textit{Formula No. 2.})$$

The new terms appearing in Formula No. 2 are "R" and "B." "R" represents the rate of mail pay and "B" the base upon which mail pay is calculated.

Suppose that in the air line case cited above it is estimated that 3,000,000 aircraft-miles will be flown during the given fiscal year. This figure could be taken as the base. If $600,000 were the amount of mail pay deemed necessary, then the rate of mail pay in this case could be stated as 20 cents per aircraft-mile. Three million miles at 20 cents per mile would amount to $600,000.

The Board is now using aircraft-miles as a base for the calculation of a mail pay. Rates are being stated in terms of so many cents per plane-mile for loads averaging 300 pounds or less (during a month) with an additional allowance when loads average above 300 pounds. The weight unit used in the computation of the additional allowance is 25 pounds.

Thus, the formula is:

$$M = B\left[R_1 + \left(\frac{W-300}{25} \times R_2\right)\right] \quad (\textit{Formula No. 3.})$$

Here,

M = total mail pay in dollars
B = plane-miles
R_1 = base rate in cents per plane-mile
R_2 = excess rate in cents per plane-mile
W = average weight of load in pounds

The user of this formula should note that the term $\left(\frac{W-300}{25}\right)$ should always be expressed as a whole number, any fraction being considered as an additional unit. Furthermore, if $\left(\frac{W-300}{25}\right)$ is negative, it is to be counted in the formula as zero.

If it is expected that this air line will fly 3,000,000 aircraft-miles during the given fiscal year and will carry, on the average, about 400 pounds of mail, and if it appears that about $600,000 is necessary as mail pay, the rate of mail pay could be expressed as 17.2 cents per aircraft-mile for loads averaging 300 pounds or less, plus 0.7 cents per aircraft-mile for each 25 pounds of mail or fraction thereof that the average load exceeds 300 pounds.

$$B = 3{,}000{,}000$$
$$W = 400$$
$$R_1 = 17.2$$
$$R_2 = 0.7$$
$$M = 3{,}000{,}000\left[\$0.172 + \frac{100}{25}\left(\times \$0.007\right)\right] = \$600{,}000$$

Four rate decisions which became effective on July 1, 1940, follow:[9]

Air Mail Route No. 1 (New York to San Francisco)—19 cents per airplane-mile for loads averaging 300 pounds of mail or less, plus 0.7 cents per airplane-mile for each 25 pounds of mail or fraction thereof that average load exceeds 300 pounds.

Air Mail Route No. 11 (Seattle to San Diego)—18 cents per airplane-mile for loads averaging 300 pounds of mail or less, plus 0.7 cents per airplane-mile for each 25 pounds of mail or fraction thereof that average load exceeds 300 pounds.

Air Mail Route No. 12 (Seattle, Spokane and Salt Lake)—36 cents[10] per airplane-mile for loads averaging 300 pounds of mail or less, plus 2½ percent of base rate per airplane-mile for each 25 pounds of mail or fraction thereof that average load exceeds 300 pounds.

Air Mail Route No. 17 (Cheyenne and Denver)—37 cents per airplane-mile for loads averaging 300 pounds of mail or less, plus 2½ percent of base rate per airplane-mile for each 25 pounds of mail or fraction thereof that average load exceeds 300 pounds.

The above rates apply to all aircraft-miles flown on schedules designated "necessary" by the Civil Aeronautics Board whether or not mail is on board. In the computation of mileage, direct airport-to-airport distances are used. "Since the average route mileage, which it is estimated that petitioner will actually fly in operating the approved schedules, exceeds the direct airport-to-airport mileage by approximately 6.49, 3.91, 3.04, and 1.34 percent on routes Nos. 1, 11, 12, and 17, respectively, the rates fixed

[9] *Civil Aeronautics Journal*, July 15, 1940, pp. 325–47.

[10] This rate has since been readjusted in order to meet the change in the number of schedules operating on this route. See *Civil Aeronautics Journal*, April 1, 1941, p. 90.

herein for the various routes have been adjusted upward in proportion to such percentages."[11] It makes no difference, as far as the philosophy expressed in the Civil Aeronautics Act is concerned, what rate of profits an air carrier earns upon its investment.[12]

Consequently, whether the Board chooses to use a simple formula, such as Formula No. 1, above, or a more complicated one, such as No. 3, above, or one still more complex, the term of primary importance will invariably be "M," the amount of mail pay. If the other terms, in any formula used, do not yield an appropriate amount for "M," then such other terms will have to be altered in keeping within the requirements of the act.

An important rate-making function of the Civil Aeronautics Board under the present arrangement, therefore, is to see that enough mail compensation is allowed each air carrier for schedules designated "necessary" that each, operating economically, can earn an amount of profit great enough to cause an adequate flow of investment funds into the assets required to produce the "necessary" service.

C. Passenger Fares

1. Rate determiners

WHEN PRIVATE CORPORATIONS began to carry the air mail in 1926, many of them tried to supplement mail revenue with income from passengers. The average airline passenger fare per mile in that year amounted to 12 cents. This, no doubt, represented the level which those in the industry felt the traffic would bear. Passenger space available was not abundant, and potential air travelers could take or leave the service at that figure. An important element in the calculation of what the traffic would bear was undoubtedly the charges for first-class rail.

As more passenger space became available in the planes and the magnitude of airline passenger revenue grew, operating costs began to play a more important role in the determination of air passenger fares. If passenger

[11] *Civil Aeronautics Journal*, July 15, 1940, p. 345.

[12] The act states that in the determination of mail pay the Board shall consider "among other factors, the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and the need of each such air carrier for compensation for the transportation of mail sufficient to insure the performance of such service, and, together with all other revenue of the air carrier, to enable such air carrier under honest, economical, and efficient management, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense." Public No. 706, 75th Congress, 3d Session, S. 3845, Sec. 406 (b).

business continues to assume an ever-increasing relative importance to the airlines, it should become a function of the Board to see that passenger fares are related more directly to operating costs.

The sixteen domestic airline companies operating in January, 1941, were sent a questionnaire by the present writer. The first question was:

In the development of your original schedule of passenger fares, which of the following considerations was dominant:

Charges for first-class rail transportation?
Estimated total flying expense per passenger-mile?
Estimated total operating expense per passenger-mile?
Something else? If so, what?

Four companies reported that charges for first-class rail transportation constituted the dominant consideration in the development of their original schedules of passenger fares. Seven reported estimated total operating expense as the dominant consideration. One gave the "general rate structure of the industry" at the time of its entrance as the dominant consideration. Another answered "to produce the maximum of revenue." One company left this question unanswered on the return blank, and two companies did not return the questionnaire. It must be mentioned that most of the airline corporations in existence in 1926 have disappeared from the scene and that the corporate histories of most of the reporting companies do not begin earlier than 1934.

2. *Rate reductions*

Domestic airline passenger fares declined from an average of 12 cents per passenger-mile in 1926 to 5.1 cents per passenger-mile in 1939. This drop of 57.5 percent coincided with, and no doubt was partially explained by, a drop of 39.4 percent in the average per mile passenger revenues (excluding commutation) of the Class I railroads during the same period. See Table 2.

The second question asked of the companies was:

If, in the history of your organization, there have been reductions in the general level of fares, to which of the following influences have they been directly traceable:

Reductions in charges for first-class rail transportation?
Reductions in total flying expense per passenger mile?
Reductions in total operating expense per passenger-mile?
Something else? If so, what?

The responses to this question were quite varied. Six companies reported that the reductions in the general level of their fares were directly traceable

TABLE 2.—*Comparative passenger fare levels domestic airlines and Class I railroads 1926 through 1939**

	Average fare per passenger-mile domestic airlines	Average revenue per passenger-mile Class I railroads (excluding commutation)
1926	$0.120	$0.033
1927	.106	.033
1928	.110	.033
1929	.120	.033
1930	.083	.033
1931	.067	.031
1932	.061	.027
1933	.061	.024
1934	.059	.022
1935	.057	.022
1936	.057	.020
1937	.056	.020
1938	.057	.021
1939	.051	.020

* *Civil Aeronautics Journal*, Civil Aeronautics Authority, and *Statistics of Railways*, Interstate Commerce Commission.

to reductions in the total operating expense per passenger-mile. Five of these same companies, however, added supplementary reasons such as:

"To meet rate-cutting competition."
"To attract certain types of travelers."
"To meet rates of . . . competitive surface carriers."
"Competition."
"Need for more passengers."
"Increased load factors."
"To broaden the travel base."

Four additional companies answered this question as follows:

"To popularize a new route."
"To appeal to a greater number of potential travelers."
"Experimental fares at level of first-class rail or lower."
"Experimental efforts to increase volume."

Three companies reported that there have been no reductions in the general level of their fares, and one reporting company left this question unanswered.

3. Rate examples

At the present time passenger fares between any two points are set by the airline with the most direct route between those points. Competing companies invariably meet these fares. For example, the typical one-way passenger rate charged by Transcontinental and Western Air is $0.057 per

mile. The length of its route between New York and Los Angeles is 2,625 miles and the fare is $149.95, which is a rate of $0.0571 per mile. The distance between these same two points via American Airlines is 199 miles greater and via the third possible route (United Air Lines and Western Air Lines) is 17 miles greater. The fare is identical on each of the three routes. This situation, of course, has its counterpart in the rates of surface transportation agencies.[13]

The most direct air route between San Francisco and Chicago is operated by United Air Lines. The air mileage between these points is 1,935, and the one-way fare, $105.00. The same total is charged for a ticket from San Francisco to Los Angeles via United Air Lines and from Los Angeles to Chicago via American Airlines, a distance of 2,663 air-miles. The fare between San Francisco and Tulsa (United Air Lines to Los Angeles and American Airlines to Tulsa), a distance of 2,007 air-miles, is $104.50. In this instance, Tulsa represents a non-competitive point for American Airlines and Chicago a competitive one.

Another interesting example of competitive air fares follows:

Round-trip fare, St. Louis to San Francisco	$189.00
Round-trip fare, St. Louis to Chicago	23.30
	$212.30
Round-trip fare, Chicago to San Francisco, via St. Louis	$189.00

It is shown above that passenger rates on trips originating, terminating, or both, at points served by only one airline are apt to be higher than those on trips which originate and terminate at competitive points.

The fare between Los Angeles and Winslow, Arizona, a point served only by Transcontinental and Western Air, is $27.70. This distance is 477 miles. The rate is therefore $0.0581 per mile, a higher than average level. This may be explained by the fact that the air mileage between Los Angeles and Winslow is only 79.3 percent of the rail mileage, whereas the air mileage between Los Angeles and New York is no less than 84.5 percent of the rail mileage. From a competitive standpoint it is reasonable that passenger rates per mile for air travel between any two points tend to be higher than average if the ratio of air-miles to rail- or bus-miles between those points

[13] The above rates and mileages appear in the September, 1941, number of the *Official Aviation Guide of the Airways*, Official Aviation Guide Co. There is a slight variance between some of the mileages appearing in the time tables of this issue, and the air mail route data appearing on p. 151. Hence the mileage data appearing in this section cannot, in all cases, be accepted as exact. In any event it should be remembered that the mileage actually flown between two points is invariably greater than the direct airport to airport mileage.

is lower than average. The lower this ratio, the less keen is competition between the air carrier and surface lines. This relationship is shown in Table 3.

TABLE 3.—*Passenger fares and mileages between selected points on Pennsylvania-Central Airlines compared with rail mileage**

Between	Air-miles	Rail-miles	Percentage of air-miles to rail-miles	Airline passenger fare (one-way)†	Airline passenger fare per mile
Pittsburgh and Akron	94	119	79.0	$ 5.15	0.055
Washington and Milwaukee ..	678	858	79.0	38.50	0.057
Washington and Pittsburgh ..	185	301	61.5	13.40	0.072
Muskegon and Milwaukee ..	85	277	30.7	8.50	0.100

* Excerpts and computations from published time tables and tariffs.
† Tax additional.

In the questionnaire, the air lines were also asked:

When the passenger fare per mile between any two points on your system is notably higher or lower than the average for your entire system, is the difference traceable to any of the following influences:

Relative ground transportation charges?
Flying costs between the points involved?
Length of trip involved?
Something else? If so, what?

There was a great variance in response to this question. Three of the companies explained noticeable variances within their own passenger rate structures by relative ground transportation charges. Two of these same companies, however, added the length of the trip involved as a supplementary explanation, and one of these three companies added a third explanation—commuter habits. A fourth company explained such differences by the length of trip involved. Five other companies gave explanations such as:

"Competition."
"Competitive fares with other routes of our own to common destination."
"For very short hauls fare is higher because the passenger may spoil chances of picking up a long haul."
"To meet competitive fares via other air carriers."
"To meet competitively fares of other forms of surface transportation, not particularly railroad, if bus or boat is usual means of transportation between points."

"The adverse effect a reduction would have on the rate structure of other air lines."
"Operating costs in that particular section."

Four companies indicated there were no noticeable differences in their passenger rates. One reporting company left this question unanswered.

The marked distinction that exists between passenger rates charged in the Eastern states and those charged in the Western states by the railroads is non-existent in the case of air passenger rates. This means that air transportation tends to be a little easier to sell in the Eastern states where rail rates are higher. See Table 4.

TABLE 4.—*Sample air passenger fares for eastern and western parts of the United States**

Between	Passenger fare (one-way)†	Air-miles	Airline passenger fare per mile
New York and Kansas City	$ 66.45	1158	$0.057
Kansas City and Los Angeles	83.50	1467	0.057
New York and Fort Worth	82.60	1490	0.055
Dallas and Los Angeles	73.50	1371	0.054
New York and Chicago	44.95	748	0.060
Chicago and San Francisco	105.00	1935	0.054
Jacksonville and New Orleans ...	26.95	510	0.052
Salt Lake and San Diego	40.75	713	0.057
Boston and Caribou	20.40	384	0.053
Cheyenne and Denver	5.58	98	0.057

* Excerpts and computations from the *Official Aviation Guide of the Airways*, September, 1941, Official Aviation Guide Co.
† Tax additional.

Tables 5 and 6 give some indication of the relative cost to the passenger of air and rail transportation. Comparison of these tables brings out that time may be saved through the use of air transportation only if distances to be covered are great.

If, as is shown in Table 5, it costs approximately $37.00 more to fly from San Francisco to New York than to travel on standard first-class trains, and if the time saved by air transportation on such a trip is approximately 60 hours, then it appears that a person whose time is worth $15.00 a day, or more, can profitably use air transportation rather than standard trains on such a trip. His time would have to be worth nearly $20.00 a day in order to justify, on a cost basis, the round-trip by plane. If an air travel card were used, air travel on this trip could be justified on a cost basis if one were earning $5.00 a day or more ($14.00 in the case of the round-trip).

TABLE 5.—*Comparative cost and time figures for rail and air transportation between San Francisco and New York**

	Airline		Railroad (First-class—no extra fare)	
	One-way	Round-trip (120 days)	One-way	Round-trip (60 days)
Cost item†				
Passenger fare .	$149.95‡	$269.90§	$ 93.78	$135.00
Taxi (both ends)	2.00	4.00	0.00	0.00
Sleeper	12.00‖	24.00¶	22.85	45.00
Meals (est.) ...	0.00	0.00	10.00	20.00
Total cost (est.) .	$163.95	$297.90	$126.63	$200.00
Approximate time required				
In flight or on rail	16 hr. 10 min.**	33 hr. 59 min.	76 hr. 0 min.**	154 hr. 0 min.††
Taxi (both ends)	1 hr. 15 min.	2 hr. 30 min.	0	0
Approximate total time required ..	17 hr. 25 min.**	36 hr. 29 min.	76 hr. 0 min.**	154 hr. 0 min.††

* Excerpts and computations from published time tables.

† Tax additional.

‡ $127.46 if air travel is used. (Air travel cards are cards issued by some airlines, and groups of airlines, identifying the bearer as an officer, director, partner or employe of a concern, or an affiliate, maintaining a charge account with the issuing airline for the air transportation of its cardholders. By the device, and under a subscriber's agreement, cardholders are permitted to charge the cost of their business trips to their company's account, with a 15 percent discount from one-way fares.)

‖ $10.20 if air travel card is used.

§ $254.92 if air travel card is used.

¶ $20.40 if air travel card is used.

** Eastbound.

†† Approximate time on standard (no extra fare) trains, adequate time being allowed for changing trains in Chicago. Unlike the streamliners, these trains operate daily.

Table 6 shows that air passenger travel between New York and Philadelphia cannot be justified on a time or cost basis.

With the exception of excursion rates, which are not numerous, round-trip airline fares are invariably ten percent less than double the one-way fares. An additional five percent may be saved through the use of an air travel card. Various circle tours are offered by cooperating airlines at a price representing ninety percent of the sum of the one-way fares involved in the circle. Each cooperating company agrees to accept as its share on such tickets a sum representing ninety percent of its regular one-way charge for service rendered.[14]

[14] For a further discussion, see Claude E. Puffer's "Air Transportation," The Blakiston Company, Philadelphia, 1941, pp. 392–406.

TABLE 6.—*Comparative cost and time figures for rail and air transportation between New York and Philadelphia**

	Airline		Railroad (First-class)	
	One-way	Round-trip (120 days)	One-way	Round-trip (unlimited)
Cost item†				
Passenger fare	$4.80‡	$ 8.64§	$2.70	$5.40
Taxi (both ends) ..	1.75	3.50	0.00	0.00
Seat fare	0.00	0.00	0.55	1.10
Total cost	$6.55	$12.14	$3.25	$6.50
Approximate time required				
In flight or on rail	50 min.	1 hr. 40 min.	1 hr. 30 min.	3 hr. 0 min.
Taxi (both ends) ..	1 hr. 10 min.	2 hr. 20 min.	0	0
Approximate total time required	2 hr. 0 min.	4 hr. 0 min.	1 hr. 30 min.	3 hr. 0 min.

* Excerpts and computations from published time tables.
† Tax additional.
‡ $4.08 if air travel card is used.
§ $8.16 if air travel card is used.

The typical joint airline passenger fare is the sum of the individual fares that compose it. Hence, the division of the typical joint airline passenger fare presents no problem. There are numerous joint fares, however, that do not represent the sum of the separate charges, and therefore must be divided according to agreement between the parties concerned. For example, the Washington-Chicago fare is set by American Airlines because it operates the most direct route between these two points. Many passengers, however, make this trip via Pennsylvania-Central Airlines to Pittsburgh and via Transcontinental and Western Air from Pittsburgh to Chicago. In such a case the joint fare must be divided between Pennsylvania-Central Airlines and Transcontinental and Western Air. An officer of one of these companies informs the writer that this particular joint fare is divided according to the ratio of the one-way charges involved, and that, to his knowledge, this constitutes the usual procedure in such cases throughout the industry. As the one-way fare from Washington to Chicago, by either route, is $36.00, while the one-way fare from Washington to Pittsburgh is $13.40, and the one-way fare from Pittsburgh to Chicago is $23.95, Pennsylvania-Central would claim $12.92, and Transcontinental and Western Air would claim $23.08 of the sum paid by the traveler dividing his trip between the capital and Chicago. The writer does not know that the

Civil Aeronautics Board has made any ruling on the division of such fares (the act merely states that such divisions shall be "just, reasonable, and equitable"), and it is quite possible that some joint fares are divided according to the relative bargaining power of the parties concerned rather than by the above method.

D. Express Rates

As yet, the Civil Aeronautics Board has taken no more active a role in the determination of air express rates than it has in the case of air passenger fares. The airlines, in cooperation with the Railway Express Agency, which is in charge of the service, set the rates. These yield to the airlines the approximate equivalent, on a weight basis, of passenger business. From the revenue of a domestic air express shipment, the agency first makes various deductions for advertising and ground handling expense, then remits about 87½ percent of the remaining amount to the airline rendering the service. When two or more airlines are involved, allocation is made on a mileage basis.

Since air express yields the carriers such a small percentage of their revenue,[15] and the airlines are not now in a position to greatly expand their express business because of equipment and personnel shortages, there is no reason to ask the already overburdened board to spend much time on the problem of air express rates at the present time.

E. The Future

1. The duration of the current emergency

Since planes, pilots and aircraft mechanics are so urgently needed by those nations the United States has decided to aid in the present war, as well as by our own military and naval forces, it must be assumed either (1) that the domestic airlines constitute a very important link in our defense system or (2) that the operations of the domestic airlines should be suspended until the emergency is over. Since flying equipment and personnel are of such extreme importance today, the continued operation of the domestic airlines, throughout the duration, may be justified by needs of national defense, or not at all.

That our defense requirements include the air-transporting of persons and cargo within the continental United States (as well as beyond the continental borders) is demonstrated by the fact that the Army is already engaged in such activities to a significant extent. Ever present, of course, is the possibility that the Army, or some other branch of the government, will assume direct control of the operations of the domestic airlines.

[15] See Table 1.

The evidence seems to indicate that the speedy transportation by air of government officials, business men engaged in defense activities, and cargo involved in defense business, will make necessary the continued performance of the functions of the domestic airlines, whether or not the task is left to private enterprise. The balance of this section will be based upon the assumption that the domestic lines will be left in the hands of private owners, and therefore, that the pricing of the services will be of definite significance. It may happen, of course, that such pricing will have to be accompanied by a priorities system to assure that defense business will have first call on the limited services of the airlines.

Under the above assumption the primary objective will be the performance of the service. "Fair" prices to users of the airlines, and a "fair" return to the investors in the companies will be of secondary importance. As in defense industries, other than air transportation, the important thing today is production and more production. The time is not opportune to argue (at the expense of reduced production) about concepts of economic justice in prices, profits, wages, rents or interest. It is very possible that if production in the United States is hampered too much by disagreements relating to prices and the distribution of income, Mr. Hitler will achieve his goal of world domination.

It does not appear that the present system of pricing in the domestic air transportation industry is conducive to the production of the greatest amount of service with the limited resources available. As portrayed in Formulas 1 and 2 in the section on Mail Rates, and as indicated by the following, the reward to an air carrier for expanding its passenger business threatens to be a cut (even retroactive) in its mail pay.

> In one of the most important examiner's reports released to date, CAB examiner F. A. Law, Jr. on June 19 recommended that American Airlines' air mail pay, starting last Jan. 1, be set at 9.5¢ per scheduled airplane mile flown, and that the rate be applied on a "system" basis rather than by individual routes.
>
> The rate of 9.5¢ is the lowest ever proposed for an airline in the entire history of air transportation, and the report also marks the first time a rate has been recommended on a system basis.
>
> On the retroactive question, the examiner said: "The only question presented herein differing from that heretofore considered is as to whether or not the rule providing for the determination of retroactive rates may be applied when the effect of such application might be to take from the carrier a part of that mail compensation which it has already received. . . ."[16]

[16] Bramley, Eric, "9.5¢ Per Mile Mail Pay Recommended for American Airlines on 'System' Basis," *American Aviation*, July 1, 1941, p. 20.

The proper incentive to maximum production and economy does not seem to be present under such a system. It has frequently been suggested that a distinction be made between air mail pay, for service actually rendered, and subsidies made in the interest of the nation's defense or commerce.[17] For two reasons, it appears that now would be a very opportune time to make such a distinction. First, the difficulty just mentioned could be avoided. Second, the public and Congress would be better informed if subsidy payments were not mislabeled, and the legislative body could act more intelligently in matters pertaining to domestic air transport. In this regard, it is unnecessary to foster domestic commerce, through the use of the airlines, at the present time, and therefore any subsidy payments made to the domestic airlines should be made in the interest of national defense, should be made to the various companies only at the request of the Army, and should be paid out of military funds.

It has been suggested that the amount to be paid the airlines for the actual service they render in the carriage of mail should be determined by their cost of rendering such service. This however does not seem practicable at the present time because such cost cannot be approximated with any significant degree of accuracy. The best attempt to do so, to the knowledge of the writer was made by the office of the Federal Coordinator of Transportation.[18]

Since the mail payment for service rendered cannot very well be determined by the cost of the service, it might be well, at least as a temporary expedient, to let the value of such service determine the payment. For the present purpose this value may be defined as the amount spent on all domestic air mail postage (not air mail stamps alone, but all stamps on air mail) by the users of the service, less the ground handling expense and air mail overhead of the Post Office.

According to Post Office estimates the revenue from domestic air mail postage approximated 19 million dollars for the fiscal year 1939–40, and the ground handling expense (including overhead) on the same approximated 9½ million dollars.[19] Therefore, as here defined, the value of the

[17] See Paul T. David, "The Economics of Air Mail Transportation," Brookings Institution, Washington, D. C., 1934, pp. 215–18.

Francis A. Spencer, "The Control of Air-Mail Compensation," Princeton University, unpublished thesis 1941, pp. XVIII.5–XVIII.8.

David Weld, "A Review of the Air Transportation Industry," White, Weld & Co., New York, 1940, pp. 7 ff.

[18] See "Public Aids to Transportation," Volume I, United States Government Printing Office, Washington, D. C., 1940, pp. 129 ff.

[19] See Cost Ascertainment Report, United States Post Office Department, 1940, pp. 8 ff.

domestic air mail service rendered by the airlines during 1939–40 amounted to about 9½ million dollars. The difference between this figure and the 18½ million dollars disbursed by the Post Office to the airlines constituted subsidy according to the definitions here used.

Only one basis for the division among the various air carriers of the net revenue of the Post Office from domestic air mail business presents itself as equitable, practical and automatic. That basis is pound-miles of mail carried. Under such a plan, a carrier producing one-twelfth of the total pound-miles would receive one-twelfth of the total net revenue on all domestic air mail.

Under such a system the carriers could continue the cultivation of passenger and express business with the knowledge that mail payments would not be arbitrarily cut just because profits on non-mail business were increased. If the Post Office were not buying reserved space on schedules designated "necessary," but merely paying for service rendered on schedules which were actually necessary to the quick expedition of the mails, the average airline would enjoy greater freedom of action. More attention could be paid to passenger business in arranging schedules that would be of no significance to the Post Office.[20]

It probably would be unnecessary to allow the major airlines any subsidy payments if the full value of the mail service rendered were given them. Subsidy payments could be assigned to the smaller lines by the Army and paid out of military appropriations. This, of course, would require an amendment to the act. But the Army certainly should be much better qualified than the Civil Aeronautics Board to determine which domestic airline operations are useful to national defense. As mentioned before, there is no reason to subsidize any airline at the present time in order to foster domestic commerce.

Since, at the present stage of develoment, the passenger business of the airlines greatly overshadows the mail business in dollar value importance, it is only reasonable that passenger fares be closely related to the operating costs of the airlines. Formulae which might be used to accomplish this purpose follow:

Let "A" represent the estimated total passenger revenue necessary on a designated route.

Let "E" represent estimated total operating expense on that route.

Let "P" represent an amount of profit on that route adequate to interest private investors.

[20] For a discussion of airline scheduling problems see A. E. Blomquist, "Outline of Air Transport Practice," Pitman Publishing Corporation, New York and Chicago, 1941, Chapter 10.

Let "M" represent the estimated proportionate share of Post Office net revenue from domestic air mail operations assignable to that route. This would be based upon pound-mile distribution mentioned above.

Let "B" represent estimated express revenue on that route.

Let "S" represent the amount of subsidy allowable in the interest of national defense.

Then $A = E + P - M - B - S$. (*Formula No. 4.*)

The passenger fare structure on that route should be set to yield A.

Suppose that in the case of the operating air line, the estimated total operating expense on a designated route amounted to $2,000,000, that an adequate profit would be $100,000, that mail revenue of approximately $500,000 could be expected, that express revenue of approximately $100,000 could be expected, and that no subsidy could be counted upon. Then the necessary passenger revenue could be calculated: $2,000,000 + $100,000 − 500,000 − $100,000 = $1,500,000.

To set passenger fares:

Let "F" represent approximate average passenger fare per mile on that route.

Let "A" represent estimated total passenger revenue.

Let "C" represent estimated revenue passenger-miles to be flown on that route.

Then $F = \frac{A}{C}$. (*Formula No. 5.*)

Suppose it is estimated that on the route in question, the operating air line will experience a total passenger revenue of $1,500,000, and will produce 30,000,000 revenue passenger-miles. The appropriate average passenger fare per mile could be calculated: $1,500,000 ÷ 30,000,000 = $.05. This method of computing the appropriate average passenger fare does not indicate that it will be undesirable for the board to allow certain discriminations in the passenger rate structure of any airline.

2. *The post-emergency period.*

The post-emergency period, of course, cannot as yet even be dated. Other unknowns of the future include the following: Who will win the war? Will it end in a draw? When the conflict ends, will there be a huge surplus of aircraft, flying personnel and aircraft mechanics? To what extent will the science of aeronautics be advanced by the conflict? To what form of government will we be subject after the war?

For the purpose of this section, let it be assumed (1) that the conflict

will not end with a defeat for the United States, (2) that when the war is finished there will be an enormous surplus of flying equipment and personnel, as well as ground mechanics, (3) that greater safety and reliability in scheduled airline operations will be possible because of the advancement in the science of aeronautics, and (4) that our system of government will be fundamentally capitalistic.

If these assumptions prove to be true, it may be expected that at the conflict's end there will be much pressure brought to bear upon Congress to have most of the first class mail which is to move two or three hundred miles or more transported by air. Low cost cargo and mail planes will be used and the operating costs of such services quite likely will be determinable for the first time. It will also be possible to determine more accurately the costs of rendering passenger service by air for there will be thousands of exclusive passenger flights with no mail or cargo on board. Low cost cargo equipment will permit low charges on air express business, and the rate of growth in air express may be expected to exceed that of air mail for a period of several years.[21] The growth of air express and freight will introduce to air carriers the endless problems of rate discrimination with which surface transportation agencies have long dealt. The air passenger business in the post-emergency period will make current volume appear insignificant.

Since the regulating agency at that time will be in a better position to know the costs of operating the various types of services, it may then scientifically relate prices to costs[22] and endeavor to allow reasonable rates of return to investors. At that time fair prices and fair rates of return will be as important as the production of the service itself. Hence, at that time, rate bases will assume significance.

It is doubtful that there will be any justification for airline subsidies to foster domestic commerce in the post-emergency period. By that time the airline business should be well beyond the infant industry stage. Whether or not there will be justification for continued domestic airline subsidies in

[21] On March 17, 1941, it was announced that the four largest domestic lines had formed a corporation, Air Cargo, Inc., to explore the possibilities of expanding air express and air freight business. On July 10, 1941, the Universal Air Freight Corporation, a new subsidiary of the United States Freight Co. began to apply the methods of the parent corporation to air express operations. These methods involve the collection of shipments from numerous individuals, combining the packages and taking advantage of bulk rates.

[22] For a discussion of the practical difficulties involved in relating the prices of the various services of transportation agencies to the costs of producing the same, and the theoretical limitations of the cost of service theory of transport rates see William Z. Ripley, "Railroads, Rates and Regulations," Longmans, Green and Co., 1924, pp. 166–84.

the interest of national defense after the current conflict is over will depend upon the nature of the peace.

As the industry matures and becomes economically stronger, it will become possible and desirable to assess it with an equitable share of the operating costs of the government-controlled airways and an equitable portion of airport costs. When this is accomplished, this industry will be operating on a fair basis with its surface competitors despite the fact that railroads will probably always be subject to heavier taxation. Airways, unlike railways, do not require the exclusive use of much space on the surface of the earth, thus displacing other human activities.

F. Conclusions

OUR GOVERNMENT HAS CHOSEN mail payments as a direct means of subsidizing our air carriers. Before 1934, the airline companies sought passenger revenue as a means of supplementing mail income. In 1934 the former overtook the latter as the leading source of income for the domestic airlines, and passenger revenue has continued to increase in relative importance ever since. At the present time, these carriers, as a group, receive about two-thirds of their income from passengers. For this reason it appears desirable that the passenger fares of this quasi-monopolistic industry should be set, as directly as possible, in relation to operating costs. Mail and express revenue, rather than passenger and express revenue, should now be regarded as supplemental.

A clear-cut distinction should be made between mail payments for service rendered and subsidy payments made in the interest of the national defense. Those funds expended by air mail consumers should be apportioned among the airlines on a pound-mile basis after deductions for ground handling expense and Post Office air mail overhead have been made. In addition, the smaller lines should be granted subsidies, if defense requirements so dictate. In any event, mail payments to a company should not be reduced just to offset increases in profits on passenger business.

As the industry becomes economically stronger, it should be charged with an equitable proportion of the operating costs of airways and airports in order to place it on a more equal footing with its surface competitors.

Above all, the advantages of free enterprise should be allowed the operators in so far as is possible in an industry which is organized to receive the advantages of monopoly. For the duration of the emergency, the objective to be gained in the pricing of the services of the domestic

airlines should be the greatest contribution to national defense possible with the limited resources available. "Just" prices to consumers, and a "fair" return to investors are, at present, of secondary importance. When the war is over, it will be the duty of the regulating agency to see that the services of the air carriers are "justly" priced according to the soundest economic principles of rate-making available, and to see that an excessive return upon investment is earned by no carrier, for each enjoys, to some extent, the privileges of monopoly.

In times such as these no one, specialist or layman, can look into the seeds of time and predict with any confidence which will grow and which will not. We are all aware that we are in a period of great transition, a time when not merely the superficial aspects but even many of the fundamentals of our old order are passing away; but we do not, and we cannot, foresee with any great clarity the dim outlines which constitute the shape of things to come.

One thing, however, is clear and that is that the clock is never turned back, that the postwar world, whatever it may be, will not be the world of 1939. Likewise, there is the uncomfortable realization that "Time's winged chariot" is hard upon our heels, and that unless we do what we can to look ahead, we may be called upon suddenly to take many decisions of transcendent importance even before we have had time to weigh and consider what the proper course of our national policy should be. . . .

Our problem is one of political economy, and an appallingly complicated and perplexing one it is. If we can survive the transitional period without building up agencies and practices which will jeopardize or handicap our long-range needs, and if we can solve the persistent problem of security, then, if we have imagination and courage, I see no reason why we should not have a large volume of foreign trade flowing without excessive impediment to consumer markets. We will not thereby bring back a vanished world in which a few industrial centers will supply the remaining portions of the world, but we will have a system in which the movement of goods will be dictated primarily by economic and not by political consideration. Such an achievement as this would fortify tremendously any security system which we may establish. Thereby, and only thereby can we hope to win a peace which will justify the cost.

GRAYSON KIRK[1]

[1] Quoted in *Taxes for Democracy*, Tax Institute, Philadelphia, No. 51, Dec. 22, 1941.

· COMMENT ·

Capitalism as a Progressive Economic System

As one of the aims of our new American Journal is to provoke discussion, perhaps I may be permitted publicly to disagree with a fellow editor and thereby assure our readers that they too are welcome to refute any error of fact or logic, seen or fancied.

I must dissent from the first portion of "Wages and Trade Unions," written by my highly respected colleague, Dr. Oppenheimer.[1] Beginning with the third paragraph, he says, "Capitalism is an essentially impossible order,"[2] and proceeds to tell us what is wrong with it. He says "Capitalism means mass-production, which presupposes mass-consumption, etc." By this test, capitalism exists in the Soviet Union, or would exist in any collectivist state. To define capitalism in this way seems to me to depart from the accepted meaning of words and thereby to lead to confusion. "Capitalism" is conventionally used to describe an economic system characterized by a predominance of privately-owned wealth, individual initiative, freedom of contract, and a free market system. To me there appears to be no alternative to that system other than a collectivist state and those who are opposed to capitalism as traditionally defined, and not merely critical of it, put themselves, willy-nilly, in the socialist camp.

Dr. Oppenheimer apparently subscribes to the Marxian criticism that in a capitalistic society, the workers are unable "to buy back the products of their toil."[3] It is somewhat startling to find this criticism at the beginning of an article purportedly based on the theories of Henry George. He says that (during a period not designated) "the world market shrank in absolute extension and relative capacity."[4] If he referred to the Nineteenth Century, before the capitalistic system began to suffer from the governmental restraints that have recently been imposed upon it, the statement is quite contrary to the facts. From 1840 to 1929 the foreign trade of the world increased from 2.8 billion dollars to 66.7 billion.[5]

Dr. Oppenheimer says that the world market shrank due to the spread of industrialism to nations which became competitors "after having been customers." We have already seen that the secular trend of world trade

[1] Am. Jour. Econ. Socio., Vol. I, No. 1 (October, 1941), pp. 45–47.
[2] Ibid., p. 45.
[3] Cf. ibid., pp. 45–6.
[4] Ibid., p. 46.
[5] Encyclopaedia of the Social Sciences, Macmillan, New York, 1932, Vol. VIII, p. 194.

shows no shrinkage and it may seem idle to discuss the cause of a phenomenon that never existed. Nevertheless, the illusion that trade declines with the spread of industrial techniques is so persistent that it should be combatted at every opportunity. In the article in the Encyclopaedia of the Social Sciences referred to above, we read:

> Trade among industrial countries, the volume of which is much greater than is commonly believed, is the direct out-growth of industrialism. European industrial nations do more trading among themselves than with agrarian countries. Germany, for example, sends three-fourths of its industrial exports to European industrial countries, which provide a market also for three-fifths of American industrial exports; similarly, Great Britain sells a major portion of its exported merchandise in industrial countries.[6]

To contend, as Dr. Oppenheimer does, that because some speak of the "profitable destruction" of wheat, coffee, cotton, pigs, etc., we have a clear sign of the sickness of capitalism[7] is unconvincing. To me, such destruction is a clear sign of the stupidity we may expect from governmental interference in economic matters. It should be recalled that no such destruction would have taken place if a free market had been maintained. Producers organized into monopolistic groups may find it profitable to destroy a portion of a given crop, or governments may compel or bribe producers to do so, but such destruction is not the natural result of the capitalist (free enterprise) system.

I hope to be as aware as anyone of the defects of our present system, and of the advantages that would result from the social appropriation of economic rent. But I hope never to see our economic system turned over to the collectivist "planners" who, I fear, would operate it as a gigantic W.P.A. project. Our troubles have been due, in large part, to the fact that we have forgotten the conditions under which a free enterprise system can effectively operate. I hope THE JOURNAL may contribute to an understanding of the conditions under which capitalism in the Nineteenth Century enabled the population of the world to double in number and to make greater economic progress than was made in any previous century. Nor shall we ever make such progress again if our economic system is turned over to the politicians, even if they call themselves "planners" rather than socialists.

GLENN E. HOOVER

[6] Ibid., p. 192.
[7] Op. cit., p. 46.

· NOTES ·

Psychiatry — Society — Survival*

By EDWARD A. STRECKER[1]
and KENNETH E. APPEL[2]

THE EVENTS OF THESE DAYS in the world and in our country should make us all humble and reflective. No matter with what objectivity we try to steel ourselves, we cannot remain in unconcerned and splendid isolation. We realize how impotent and insignificant our thoughts may be in the face of the great forces that are sweeping over the world. Yet it is impossible not to be concerned with and anxious about the new movements and attitudes towards life, which are challenging our old beliefs and storming our conceptions of society and culture.

It is a period, then, that forces reflection upon alert and thinking people. Hearts are searched for the foundations of our faith, and reason is examined for the soundness of these foundations. The very structure and sinews of society are infinitely strained and their capacity to hold together and function is questioned. When there are breathing spells in which to think, we feel pushed to the very limits of security and we seek some firm intellectual ground upon which to stand. It is not unnatural, therefore, that Montaigne's thoughts should came to mind: *Que sais-je?* What do I know? Or, what can I know? What *can* be known? Of what can I be sure? Another eminent French writer, not long ago, has said that no one has a right to speak in days such as these, who does not share to the fullest in the life, agony, and suffering of his fellow man; that ideas are not worth much unless they come out of life and suffering; that ideas, to have any genuine dignity, must be served. The psychiatrist sees a great deal of the suffering that peace-time civilization produces. Psychiatry as a result of its observations can draw, we believe, certain valid conclusions concerning the health of the individual and society.

These are epochal days for more reasons than one. They will probably be as significant historically as the days when the Persian hosts moved on the Greeks, when Caesar sent his legions into Britain, or when Napoleon overran Western Europe. But this period is especially important for those of us

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who have been equipped to care for and help people who are suffering not only from diseases of the body, but also from diseases of the spirit and disorders of the emotions.

Psychiatry means healing of the spirit or psyche. From all appearances in this world of ours, the spirits of countless thousands are going to be increasingly disturbed and perhaps permanently disordered unless those trained for leadership and responsibility in this and allied fields can supply the knowledge, wisdom, and foresight that are necessary for suffering mankind.

In thinking of mental *health* or soundness of personality, there is the correlative concept of *prophylaxis*. All of us will have to understand more about essential factors both in the preservation of a healthy mind, and in the prevention of disease and disintegration of the personality. We must learn above all else of the *wholesomeness of work* and the *satisfaction of accomplishment*. These are foundation stones on which life must be built. Without them the individual not only misses two of the greatest satisfactions in life, but is that much more susceptible to disorders of the emotions and mind. In intense and permanent forms these appear as nervous and mental *disease*.

Many people have failed to acquire the vital habit of work, and have not realized the crucial importance of achievement. There are many reasons for this. Some have never learned to work and achieve because they have been overprotected in childhood. Their parents did too much for them or literally purchased too much security or diversion for them. Others have been removed from the necessity of work and accomplishment by the supposedly fortunate but dangerous inheritance of a fortune which has precluded the necessity for work. Many millions have been removed from the hygienic practice of working by the economic misfortunes of this country. An understandable but unfortunate emphasis on money and material standards has kept many others from work, because of the insistence on higher wages and no work, rather than lower wages and wholesome work. They thus have almost voted for their own poor hygiene. It is a serious question whether labor unions in their fight for more equitable conditions of life and work have not unwittingly decreased opportunities for employment and thereby spread the disease of enforced idleness. And now in the face of world emergencies disputes on hours of work and wages frequently have been holding up defense production, when perhaps the only guarantee of freedom for any possible discussion of such matters, and the only possibility of decent wages at all in the future, depends on speeding production. It is as if two firemen were to discuss who was to hold the hose

and who should turn on the hydrant when a fire is rapidly consuming a house. Our economic disorganization, our social idealism, and our political unwisdom have bred millions of unwilling dependents, a condition which has been a staggering problem in national mental hygiene.

Undue dependence of the individual produces a host of unhealthy characteristics. Their variety is astonishing: Loss of initiative and resourcefulness; carelessness and thoughtlessness; incapacity and inferiority; lack of foresight and vision; fear and insecurity (in war, shell shock); restlessness; discontent and boredom; irritability and hostility; inability to share in social life and social responsibility; an unwholesome need for help and support. These results of excessive dependency are handicaps to individual achievement and social relationships. They may grow pernicious and gnaw at the very vitals of the personality. Finally uncontrolled temper, torturing fear, or malignant melancholia may complete the disintegration. The *experience* of unhealthy dependency produces helplessness and insecurity. The resulting fear increases the *need* for help and support. This finally may become an unreasoning and exorbitant *demand* on others or even a *threat* of harm if a desire is not fulfilled. Such developments are not uncommon in intense nervous afflictions. These characteristics appear whether there is too much dependency of the child on its parents, the unemployed on the state, or the wealthy on their fortunes.

The social expression of these attitudes is all too evident in many common phrases. "The world owes me a living." "I don't have to start at the bottom; my father has influence." "If the boss doesn't come across, we'll strike." "People want things nowadays without working for them." These attitudes are glibly expressed as rights, without any thought of individual or class responsibility. Obligations are summarily dismissed as if past training and past conduct were unimportant considerations. There is no appreciation of the fact that the mature individual is the one who contributes most and demands least.

The danger at present is that dependency on the state may create irresponsibility and ineffectiveness in our population at large, just as governmental over-indulgence of the entrepreneurs in the past bred frightful irresponsibility in that class. On an international scale at least one factor in the misinterpretation and misunderstanding concerning the question of aid for Great Britain may be traced back to our long-enduring and unconscious dependency upon British naval strength. "Passing the buck" seems almost inevitably to be the offspring of regimentation, whether in peace or war. Millions of our people are developing characteristics that are not only

unwholesome but a serious burden on and a threat to our economic and cultural sanity. Malignant tendencies exist on both sides of the economic fence.

We must not unnecessarily contrast the interests of the different classes nor exaggerate their differences. A realization should be cultivated that all groups are standing on common ground and unless they pull together all will suffer and perhaps be lost. It must be seen that the social pendulum does not swing too far in either direction, else it will tear loose from its pivot and its function be gone.

War and army life, however necessary they may be in great emergencies, have their own hazards for the psychological life of the individual, in the great mobilization of anxiety, increased dependency, loss of initiative, and complete regimentation that are inevitably involved. We are not eduacted, a finished product, when we graduate from school, college, or the professional schools. Education is not just the acquisition of knowledge and the cultivation of feats of memory. It is also training in cooperative and helpful living. History is not merely the building up of memory—a storehouse of facts, dates and a summary of wars. It should be the study and survey of human relationships, the forces contributing to successful social living and the forces militating against it.

Education is a progressive discovery of the nature of things—natural objects and human relationships. It is a zestful journey which is never ended. He who has finished with his education is either uneducated or senile. The mind is not just a vague entity that lives in a mysterious realm and in a vacuum. It is a series of processes that helps us to carve out of our physical environment the means of livelihood, and which enables us to live helpfully and enthusiastically with our fellows in society. An individual is really not an individual in the true sense of the term unless he lives in and helps society, as Aristotle long ago pointed out. The most isolated person in the world is the person suffering from mental disease.

Education must include an understanding of the principles that are necessary for the life and survival of a wholesome society. People must learn to assume the responsibility of living vitally and constructively. They will thus come to realize the disastrous effects of poor mental and social sanitation just as they are now aware of the evil consequences of an infected milk supply. They must learn the dangers of over-protection and spoiling, of over-severity and domination, the significance of the need for security, the effects of over-possessiveness, selfishness, and egocentricity. They must know the results of lack of training in social cooperation, of

over-dependency, of the lack of initiative and a sense of responsibility—in the growth of unhappiness, in vocational failure, and in the development of emotional instability.

Our way of life is being tested by all manner of assaults. Some have been mentioned and there are others. The dangers that threaten and weaken are not by any means all from foreign shores. The weaknesses within should receive attention and scrutiny quite as much as threats from without. There is the disproportionate emphasis on pleasure, comfort, self-interest, and financial success. Class obstinacy and antagonism, obstructionism, and attempts at class paralysis, group misunderstanding and misinterpretation, certainly are ulcers in our social body. Let us see to it that they do not become cancers. Dreams of infinite power and capacity have become too prevalent in our thinking. Think of the complacency and security with which people speak of our natural resources, governmental remedies and recently the Atlantic Ocean as a bulwark against all aggression. Many of us too often live in magical or fantastic worlds such as are not infrequently portrayed in the movies and which the country naively and disastrously tried to realize in 1929. Thinking characteristic of mythology and fairy tales is not limited to childhood. All these tendencies, psychiatrists see daily contributing to the defeat and disintegration of individuals in our mental hospitals and are, therefore, tremendously concerned when they see them increasing in the population at large.

The attitudes and habits that must be inseminated and cultivated, if our nation is to weather the stresses and storms that are upon us, are not those hidden beneath self-glorifying, self-consoling and responsibility-evading words and slogans. Ideas of *service, achievement,* and *social responsibility,* the necessity and duty of social and economic *cooperation* of *all elements* in our social organism, must be ground into our nerves and sinews, become second nature to us if our own democratic culture is to survive. The true meaning of liberty and freedom has too often been lost. Individual liberty and freedom without responsibility is anarchy for the individual, and for the nation, social insanity.

Too much individuality and power exercised by one gland, for example, the thyroid, destroys the organism as a whole. Similarly, too much emphasis on individual rights or class rights without responsibilities and cooperation, is socially disintegrating. The person who is too much of an individual is eccentric, off center. His influence in society is centrifugal, obstructionistic and destructive. The same holds true for any large and powerful group in our society and nation. The Nth degree of centri-

fugalization, eccentricity, and obstructionism is the completely a-social individual, that is the fanatic or insane person. Hence the critical importance of scrutinizing leaders. Leaders must give us new visions and call forth unused energies. We must be united by forces of common will and common vision, by a will to cooperate and to subordinate our individual preferences to the good of the whole. A *new morale* must be developed and vitalize our society. Democracy must prove itself and demonstrate that idealism, sacrifice, and vigor are not incompatible with its very structure, as critics so loudly assert.

Maturity in the individual is shown in part by the ability to cooperate and work with others and to work under authority. It even implies the capacity to work amicably with someone with whom we disagree. The same should hold for society in general. Democracies must learn, as England has, that at times the choice is either coalition of diverse elements or collapse of the whole. Just the fact of being organized into certain vocational or economic groups should not confer unusual powers, unusual indulgences, or unusual immunities. Society cannot turn over its direction preponderantly to either labor, business men, or politicians. When this has taken place loss of group rights and disaster has followed. History teaches that demanding too much has again and again led to the loss of freedom that a group already possessed. An effective and satisfying society requires the integration of all of its great groups. Cooperation, compromise and self-denial, should be the spirit vitalizing our country. Unity of purpose, a vision of the country as a whole, an ideal of working together for the common good, should be the dynamic forces inspiring us, whatever our group. Our way of life is being tested to see if the cohesive, integrating, and cooperating forces can outweigh the disjointing and destructive forces. We know what happens to the individual when the various forces within the personality do not pull together. The disintegration of Europe tragically shows what happens to states when the different political, economic and social groups do not cooperate. Just as health can be restored to broken personalities through the practice of certain fundamental principles of conduct, so society through the diffusion of certain basic laws of social health can cure the disease of social and political divisiveness. The interests of no group can reach ultimate fulfillment apart from the interests of the whole. No class can be relieved of the obligation for cooperation or believe itself immune from the laws of human nature without danger of destroying the society that has given it birth.

What then is the essence of mental health?

> It is the capacity to use one's abilities with interest and satisfaction and enthusiasm without aiming for happiness alone. It is the capacity to do something worthwhile, to pull one's load in society and to refuse to be carried unless one is sick. It is the capacity to get along and to cooperate with others. It is the capacity to stand frustration, discouragement, and disappointment—whether the frustration be of one's ambitions or in one's personal relationship with others. Frustrations must be borne without developing depression, fear, insecurity, anger; without developing extreme methods of escape or avoidance; without suspicions of being imposed upon; and without undue and permanent bodily disturbances associated with intense emotion.

Social mental health, therefore, a healthy society, implies good health on the part of its individual members. Mental health, like courage, skill, temperance, and reliability cannot be voted to us. It cannot be bestowed on us by a fairy-godmother type of government. It must be acquired like these other things, through practice and development. It is an achievement, not a gift. All this is part of the vision which it is our duty to spread—for without vision nations perish. Our leaders and our people must develop a vision and a will to work, achieve, and cooperate, else we decay or become destroyed.

A man of German ancestry who faced personal and social disaster with courage and faith leaves us these inspiring words:

"I am not discouraged. Things will right themselves. The pendulum swings one way and then the other. But the steady pull of gravitation is towards the center of the earth. Wrong may seem to triumph. Right may seem to be defeated. But the gravitation of eternal justice is towards the throne of God." (Altgeld.)[3]

[3] John Peter Altgeld, 1847–1902, quoted in Henry Thomas, "The Story of the United States: A Biographical Story of America," New York, Doubleday Doran, 1937, p. 327; Waldo Browne, "Altgeld of Illinois," New York, Huebsch (undated), p. 331.

Why is it that the formally educated and polished are so often futile in the presence of vast movements of history? Why is it that so many makers of history on a large scale spring from somewhere near the earth of Antaeus and manage to do things on a colossal scale, displaying profound wisdom in the operation? It is that the great philosophies and systems of thought which adepts pile up, teach, and parade, so far as they are valid for life, derive from a few commonsense aphorisms, fables and maxims evolved by ordinary humanity in its varied efforts to grapple with the stuff of life. Out of the mouths of babes cometh wisdom.

CHARLES A. BEARD

A Classic American Guide to Democratic Triumph and Lasting Peace

By BALDOMERO ARGENTE

Translated by JOSEPH M. SINNOTT[1]

IN THE COLLECTED WORKS of Henry George, "Progress and Poverty" is the principal volume. In it are contained all of George's thought, his economic and social doctrines and his philosophic and moral elucidations. The other books of the great thinker are developments of some of his concepts, applications of his doctrine to concrete problems or derivations from the fundamental theory, such as "Protection or Free Trade."[2] Thus if it may be affirmed, with certainty, that he who knows only "Progress and Poverty" of all the works of Henry George lacks a complete vision of the Georgist social philosophy, it would be no less exact to say that he who is unacquainted with this work is ignorant of Georgism although he may have read all the others.

This primal place which the book enjoys in social theory is unanimously recognized. It is the one of Henry George's works that has been reprinted most often and translated into the most tongues. With respect to languages, it may be averred that "Progress and Poverty" appears in the bibliography of all peoples whose level of culture is above the primitive. This is the book of which it has been correctly stated that more editions

[1] Translated and adapted for THE JOURNAL from the preface to Señor Argente's translation of "Progress and Poverty" into Spanish, "Progreso y Miseria," Francisco Beltrán (Biblioteca Moderna de Filosofía y Ciencias Sociales), Madrid, quarto, 502 pp. Readers of THE JOURNAL in Spanish-speaking countries will be glad to know that, for the first time since the Spanish Civil War, the scholarly Beltrán edition, first published in 1922, is once again available (in an edition from the plates of the 1923 printing) from the Robert Schalkenbach Foundation, New York. [Throughout this note, the footnotes are by the editor.]

[2] For a bibliography of current editions of George's writings, complete except for minor papers, cf. the catalogue of the Robert Schalkenbach Foundation, New York. The foundation maintains in recent printings textbook editions of George's major works ("Progress and Poverty," "Social Problems," "Protection or Free Trade," "The Land Question," "Property in Land," "The Condition of Labor," "The Perplexed Philosopher," "The Science of Political Economy") and, working in cooperation with the Henry George Foundation of Great Britain and the Henry George Foundation of Australia, seeks to keep in print George's shorter essays. The foundation also cooperates with commercial publishers in the publication of trade editions of these works; it has published or aided in the publication of works about Henry George, studies and popular works by various authors in the land reform and tax reform movements with which George identified himself and, within the limits of the benefactions made available to it by its founder and later donors, has encouraged a series of scholarly or educational projects in the field of social reform.

have been issued than of any other book in the world with the exception of the Bible.[3] It has unleashed currents of propaganda that have flowed unceasingly in the two Americas, in England as in continental Europe, in Australia and in New Zealand; currents that penetrated into China with Sun-Yat-Sen, the first revolutionary president. These streams of thought have guided rulers, inspired philosophers, educated sociologists, animated multitudes and imbued legislatures.[4] It is the book which, constantly, undermines the socio-economic errors upon which a great part of modern thought reposes; errors that mould governmental policies and interpose between nations tariff barriers more difficult to scale than the ramparts of Nature. These errors kindle hatreds and prepare terrible wars, consuming the strength and destroying the hopes of contemporary humanity.

These words of praise are not the expression of a passionate impulse nor an unreflecting dithyramb. The power and exuberance of this book are likewise not the result of an occasional and ephemeral rapture. It is, simply, that "Progress and Poverty" embraces a problem that, examined in good faith and with the object of seeking a categorical solution, perforce must lead the author to a total failure or to an extraordinary triumph. And it makes his book a work which is destined either to perish quickly in obscurity and oblivion or to become immortal.

And Henry George has made an immortal book!

Like all great works of the human mind, it displays an exact observation of a conjunction of facts. In times still within living memory, faith in progress dominated our thoughts. We saw the misery and suffering that flow from it and afflict the great majority of human-kind. We were confident, however, that this progress would gradually reduce poverty and its terrible atonement until it would furnish to all men a measure of well-being.

[3] The best collection of George materials, including ms. letters and memorabilia as well as copies of some of the various editions of his works, is the Henry George Collection, New York Public Library. Cf. R. A. Sawyer, "Henry George and the Single Tax; a Catalogue of the Collection in the New York Public Library," The Library, New York, 1926. Benjamin Burger, Esq., New York, has spent many years tracing missing items. Some additional data on the various printings of George's works are in the reports and files of the Robert Schalkenbach Foundation.

[4] A definitive work on the nature of George's contributions to moral and social theory and their influence in his and later times remains to be done by a specialist in the history of ideas. Most existing studies are concerned with the single-tax panacea indelibly attached to his name; see, for example, Broadus Mitchell, "Single Tax," Encyclopaedia of the Social Sciences, Vol. 14, Macmillan, New York, 1934, p. 65: ". . . George's influence . . . is insusceptible of precise calculation." For an indication of the possibilities of such a work, cf. Mitchell, *op. cit.*; George R. Geiger, "The Philosophy of Henry George," Macmillan, New York, 1933 (and especially Prof. Geiger's chapter on "George's Influence"); and Franz Oppenheimer's forthcoming work, "Land Reform."

The facts have disillusioned that hope and have perturbed our minds with a disconcerting and dreadful reality. As progress has proceeded, poverty has not only not diminished, but has actually increased through most of the social strata. It has made itself more hopeless and insupportable, provoking degradations, corruptions and rebellions which have engendered or aggravated the frightful wretchedness that we call social problems until a point has been reached where men strive to flee from the countries where progress has reached its highest development. They hasten to those contiguous zones of incipient civilization, where life is more rudimentary and primitive, zones that are the only places where a man can acquire confidence in himself and in the fruits of his labor.

Why?

Here is the enigma; an enigma that contains the secret of the present and of the future of our civilization; an enigma whose solution constitutes the ultimate object of all sociological study and as such will provide the basic principles of socio-political policy.

Indeed, that is the question that Henry George formulated in the beginning of the book, when he confronted, face to face, the observed facts. The pages of "Progress and Poverty" do not constitute an *a priori*, dogmatic answer but rather the thread of an investigation undertaken conjointly by the author and the reader. They share the realities of the situation and, guided by clear principles, they seek a satisfactory solution.

And they find it, glistening with light, incontrovertible, axiomatic. The book which enfolds such a treasure is an exceptional book.[5]

With deft strokes, Henry George characterized the contemporary fear of want, of loss of security. And after recognizing that the problem which this process of modern society offers to the thinker should be resolved by political economy, he traces it clearly and concretely to its fundamentals, as had never before been done by any treatise on sociology:

The cause which produces want in the midst of plenty is, evidently, that which manifests itself in the tendency of wages to a minimum, a law recognized everywhere.

Indeed, we reduce the inquiry to this simple question:

"Why, in spite of the increase of productive power, do wages tend to a minimum which will give but a bare living?"[6]

This is the theme of "Progress and Poverty." Its development is a process of reasoning, exact and unique, which unfolds like the links of a

[5] "This relationship of poverty with progress is the obscure problem of our times. . . ." "Progress and Poverty," *op. cit.*, intro., p. 10.

[6] *Ibid.*, p. 17.

chain with all the refinement that is needed so as not to leave an obscure point or a dangerous intermission. In addition, there is evident the strength of character needed to cling to the determination not to weaken any possible objection nor to hide foibles or laxities of conviction. Then, too, there is the extraordinary lucidity necessary so as not to lose the humblest thought all through the pages and in all the series of deductions. No link in the chain is lost sight of, so that the most fretful and lax attention will not waver nor allow any of the fundamental truths which conduce to the solution to become obscured.

In order to achieve the latter condition, all the answers that are given by the different schools of political economy and sociology to the question which embraces the great problem of our time are examined. Only when the insufficiency and the falsity of these solutions are made apparent does the author initiate the investigation which, based solidly upon the facts, has to lead to the correct solution if the mind does not go astray during the course of the reasoning.

The first stage of the inquiry caused him to establish the problem, not as one of production, such as is the custom among some schools or individuals who, knowingly or instinctively, wish to prevent light from being shed upon fundamental social injustices, but as a problem of the distribution of the wealth. And in doing this, the author touched the most defective and obscure part of political economy, precisely because it is the most vital part of the science.

Two questions arose at this point: 1. Are there natural laws of the distribution of wealth apart from and superior to the intervention of man, laws which the latter can perturb or deflect but cannot violate with impunity? 2. If there are such laws, what are they?

To the first it was the custom to answer in the negative, even when, so it seems, that negation was engendered in an error of comprehension. Back of this error purpose was continuously working. The existence of natural laws for the distribution of wealth was denied in order to evade the obligation of investigating them, since they point out the perennial violation of those laws in contemporary societies and thus condemn the principal institutions upon which the societies and modern civilization are based.

Henry George affirmed and demonstrated the existence of those natural laws, that they are moral laws united by the supreme law of justice. The supreme law of justice, he held, stipulates that the product should go to the producer; this, he believed, was the true, solid and indestructible basis

of the legitimate right of property. His doctrines pertaining to the existence of natural laws of the distribution of wealth were expounded by the immortal American author more fully in his posthumous book, "The Science of Political Economy," than in "Progress and Poverty."

On the other hand, in the latter he gave ample reply to the second question: Which are these laws? He established those which divide the wealth produced into three parts; wages for work, both intellectual and manual; interest, for capital; and rent, for natural agents. This doctrine is, perhaps, the transcendental and original contribution of Henry George to the science of political economy and to sociology. In it is the source of all the light that Georgism throws on social problems and their solution. And "Progress and Poverty" is the only book of the social thinker where this unsurpassed part of the doctrine is studied to the extent necessary.

It is not necessary to analyze the development of the investigation step by step. That would supplant the author uselessly and break the charm of gradually discovering the solution; a charm which fascinates the reader and gives him an indelible emotion.

In his book Henry George arrives at the conclusion that (absolute) private property in land is the institution which disturbs the natural distribution of the wealth. He also diverts to the rent, or the gain extracted from property in natural elements, all the benefits of progress. It is that which causes the trend of wages to a minimum; increases continuously the inequality between men, creating the opulent, gilded parasitism above and the implacable poverty and the cruel suffering below. It is that which, finally, corrupts social life and corrodes and destroys civilizations.

And as (absolute) private property in land, as George demonstrates, is a restraint of the common right of all men and an infraction of the common law, one finds it to be at last a violation of the inexorable and indestructible divine law. Thus it is also found to be the origin of poverty, the cause of the frustration of all human efforts to combat misery. The solution is found in the return by ways and means which he explains, to the dominion of the moral law and to the restoration of the divine will amongst men. In this manner the two great aspects envisioned by some sociologists would be conjoined spontaneously in the contemporary social problem. Thus he demonstrates that it is an economic question and, at the same time, a moral question as well.

"Progress and Poverty" was written in 1879. Sixty-three years have passed. How many books of that date have survived the passage of twelve lustrums? How many conserve intact the efficacy and fecundity of their

doctrines? Even those which large multitudes and men of science considered as urns of truth have cracked when they have not crumbled; and, subjected to revision, they begin to journey toward the shades of discredit. Such has occurred with one that is in some respects similar to "Progress and Poverty," namely "Das Kapital" by Karl Marx.[7]

If any book can serve as a comparison with that of the remarkable Henry George, it is "Das Kapital." Both propose to study the laws which govern the distribution of wealth. But what a distance between the two thinkers with regard to amplitude and elevation of thought! Henry George concerned himself with the interests of humanity and of civilization. Whereas Marx forged an economic theory and a purely human social conception, George, through economic concepts, illumined a moral theory and found at the crest of all social functions the eternal, immutable law of justice, the supreme governor of social life, the divine mandate, whose observance carries men toward progress and civilization at their greatest splendor but whose infringement causes social evils and precipitates the populace into decay and death.

Nothing in the intellectual field equals the radiant beauty of George's concept of social life. His sociological vision has the marvelous equilibrium, the unutterable harmony of pure truth, so expressive in its simplicity that it overpowers and subjugates the mind. By its side all modern sociology seems rude, uncouth and incoherent, like that of men who march blindly on an unknown road, stumbling and falling at each step.

Indeed, many of the concepts of "Das Kapital" have been "subjected to revision" a euphemism behind which their decisive repudiation has been concealed. They have not been able to withstand more attentive examination or being confronted with reality. And by the formidable book of Max Hirsch, "Democracy Versus Socialism" (1901),[8] a penetrating analysis of the socialist doctrines which is not surpassed in minuteness of detail nor in profundity nor lucidity by any other analagous study, the Marxist Bible was undone, demolished. The only followers it is still able to conserve are those who have made of its acceptance an act of faith, without comprehending it, or who accept its affirmations like dogmas without allowing themselves to reflect on them.

[7] Modern Library, New York, 1939.

[8] Henry George School of Social Science, New York, 1939. (Facsimile of the Melbourne memorial edition of 1924.) A definitive edition is to be published by the Robert Schalkenbach Foundation in 1942. For a shorter exposition of his analysis, see Hirsch's "Socialism, the Slave State" (1904), edited by Will Lissner with an introduction by Francis Neilson, Henry George School of Social Science, New York, 1939.

Instead, "Progress and Poverty" remains unscathed. Its assertions have permanent value, because they contain not dogmas but arguments; they deal not with transitory social phenomena but the play of social life in all of its forms. They do not investigate artificial laws but natural laws, that is to say, permanent laws. And the findings of the investigation, the explications which it gives and the solutions which it proffers pertain to today as well as yesterday. They are as valid at the present moment and in the Europe of today as they were in 1879. Likewise in North America, their reality is so unmistakable that he who attentively reads "Progress and Poverty" and looks around him will find, without doubt, the proof of its doctrine.

The war itself has not caused this book to lose an iota of its timeliness. On the contrary, it has proved it. The present hour is not fundamentally different than those of the first years of the twentieth century. Today is the lawful son, or at least the direct heir, of yesterday. The war has not canceled problems anterior to it in order to create new problems. It has simply exacerbated those previously existing, aggravating them and carrying them to the point where their solution, even to the eyes of the most obstinate, is inevitable.

The social problems that preceded the war were the creatures of that same march of civilization. As the latter heightened and became more complicated, those problems increased with equal measure. Their motivating force is (absolute) private property in land, the monopoly of the land by the land owner, the monopoly which creates monstrous cities and depopulates the countryside. This monopoly is the basis of enormous fortunes and leaves millions of human beings in absolute indigence, incapable of earning their bread without selling their labor. It corrupts the idle rich and plunges the poor into the poverty and the ignorance which inevitably accompanies it. The monopoly of the land by the few poisons the social environment with jealousies, hatreds, rebellions and corruption and dissolves the sentiments of human solidarity, family love and hope in the triumph of the good.

Indeed this process of civilization is being accelerated as a consequence of the war and even during it because of the enormous efforts of all peoples to extract from society every possible resource so that they might conquer in the struggle. The repercussions of this latter process have produced the same effect on other peoples. The monopoly of the land has placed in high-relief the characters of the people and the resultant consequences, the disinherited class has acquired greater consciousness in the identity of their

interests and a greater discontent with their status in society. The restlessness and the acerbity of the environment stimulated by the decomposition of the adjustments which previously maintained the social equilibrium, have arrived at a point where one can dimly perceive the clarity of the vision of Lloyd George when he could say, without abandoning his post of president of the Cabinet of Ministers of England:

The old world is hopelessly sinking; blind is he who cannot see it and mad is he who boasts of saving it.

In the midst of the confusion of mind created by this great virulence of social evils and this unpreventable collapse of the old social order, "Progress and Poverty" is a potent light that dissipates all perplexities. It is a guide which, in all the labyrinths, orients a clear and serene explanation of the phenomena that enfold and bewilder us. Through the economic and social vicissitudes of the post-war era, one notices the incomparable solidity of the investigations of Henry George and of the solutions at which he arrived. His theory acquires the brilliance of certainty.

There are few countries in which this book might be of greater utility than (besides Spain) in the Spanish-American republics. In none of these has industrial life acquired sufficient development to hide the influence of land monopoly by one class on social life.

My country (Spain), singularly, after the war of 1914–18, was the scene of a double process of decomposition and social reorganization. The State with all its institutions and mechanisms was decomposing. The Executive and the Army, the representative bodies and the political parties had lost their efficacy. They conserved their names and their external forms but they lost their former significance. Far from serving the nation they lived on it and were choking and smothering it. They were crushing it with their immense, parasitic bulk. With their spirituality dissipated, all these agents of the state rotted away, dispersed and dissolved. And this occurred also because the social structure itself, to which they responded, had broken down. The equilibrium of the social classes had disappeared. The fatal work of progress in the social economy manifested itself. The rich grew richer; the poor became poorer; the ranks of the needy swelled to a greater proportion. The economic basis of the middle class was swept away and its members existed miserably and in anguish. Since all its efforts to resist decadence resulted in futility it merely lived on in despair. The process that brings progress with poverty, explained by Henry George, took place inexorably in my country and before my very eyes.

An enlightened public opinion and enlightened political parties, aware of the causes and the paths of the relative decadence and decomposition, were lacking. If they had been active and alert, they might have arrayed themselves to overcome and conquer the evil effects of the process. Outside the halls where the public opinion of the governing classes was formed, ideals were fostered that aroused revolutionary desires. Thus the reconstructive movement loses its way.

To these instruments which are the builders of the future, "Progress and Poverty" could give the content and the orientation which they lack. For that which is set forth in it is not a new fiscal system, nor a social reform; it is a new civilization. Therefore its theory, which really aspires to restore the moral law as the supreme rule of the adjustments between men, is, at the same time, conservative and radical, patriotic and profoundly revolutionary, so much so that it is difficult to conceive of a more intense revolution. However, it would be a revolution hatched by ideas and not by violence, by justice and not by class privilege. It is the only kind of revolution which can bring to the world, along with economic emancipation of all men, the rule of fruitful and true human liberty.

From this point on the American people will never again make the mistake of believing that we can have prosperity while the rest of the world collapses; or peace while the rest of the world is at war; or freedom while the rest of the world is being enslaved. It is therefore assumed that after the war we shall make our international policy and the international behavior of American private interests conform to our desires for peace and the elevation of human dignity everywhere.

NATIONAL RESOURCES PLANNING BOARD

In Memoriam: Shailer Mathews, 1863-1941

IN MANY DIRECTIONS the influence of Shailer Mathews spread beyond his denomination (the Baptist) and his academic post, his professorship and deanship of the Divinity School of the University of Chicago. The assay of his contributions to the several fields of theology that claimed his attention for the greater part of a long lifetime, and particularly to biblical exegesis, may safely be left to experts at estimating both gold and dross in such ores. But as a pioneer in the movement to restore to Christianity in America an appreciation of its mission and its obligation to men living in society, Shailer Mathews earned the grateful remembrance of a wider circle of his contemporaries. And as a sociologist who was as much concerned about applying theories as about concocting them he left a distinct impress on the social thought of his time.

Unpleasant facts having a way of losing themselves from the memory, it is not frequently recalled in this era of world-scale holocausts that, only as recently as the eighties of the last century, the clergyman who dared to concern himself with economic injustices and social problems rapidly found himself a hedge-priest. Not even the august precincts of the Vatican sheltered Leo XIII from vituperation when he attempted to awaken men from their smug complacency a half century ago with his encyclical, "Rerum novarum." Yet the pulpit, like the press and the academic chair, was an instrument that was shaping the public mind of the time; and, by its negligence of principles to which it begrudged even lip-service, it was inviting a débâcle here like the one that, for not wholly dissimilar reasons, engulfed Czarist Russia. Partly in response to social change, partly in response to efforts of men like Shailer Mathews in various influential walks of life, the public mind became more receptive to assertions of the need for reform and more concerned about the intelligent choices that might be made in meeting that need.

In the process of achieving the new attitude toward social problems, neither pulpit, press, nor academic chair—the chief of the older instruments—distinguished itself by leadership and each, on that account, suffered a loss of prestige and influence that persists to this day. The press, which was most laggard, suffered the greater loss; the chair, which was the least, the lesser. But the loss to the pulpit might have been greater had it not been for the pioneers like Shailer Mathews and their work. Men like him in each of the fields of opinion formation helped to keep social criticism operating in rational channels, even though their efforts were too

feeble to do more than lay some of the foundations for enduring social reconstruction in the future.

Whatever value one may assign to the content of "the social gospel" as Mathews taught and preached it, out of doctrinal and denominational allegiance, it must be admitted that its preaching helped to form the progressive social mind of the day and thus to save Christianity from being displaced by materialistic socialism or by other equally despairing intellectual currents. Dean Mathews lived to see the democratic world, taking its patterns from the true humanism of Christian culture, lock in mortal combat with the totalitarian world, which had taken its presuppositions of thought and action from the decadent humanism of pagan culture that had made conflict inevitable. In this sense—unless the world is to be plunged into the chaos of another post-Roman period—he, and men like him, will have contributed to the victory and the peace.

Popularly, Dean Mathews was looked upon as a theologian; but actually his major interest and his major contribution was to sociology and social history. Indeed, it was by studying the social history of the men who formed and won acceptance for religious doctrines that he achieved the insight into the meaning of ideas which distinguished his work in exegesis and which made so provocative his work in dogmatic theology. Coming to theology by way of social history and political economy, following the path blazed by Albion Small (whose protègé he was at Chicago), he helped to define the sociological approach to the study of religion and to indicate its immense possibilities.[1] Particularly useful was his insistence that religion is an aspect of the social process. It *is* that, however much more some of us, of other belief, may hold it. For during the early part of his career those who demanded a more inclusive definition, ironically, were blind to this side of their subject. Religion practised as, and held to be, something isolated from the everyday life of man tends inevitably to move into the further isolation of oblivion. It was because he was an ardent Christian that Dean Mathews was concerned for social reform.[2]

But it was because Dean Mathews had thrown in his lot with science—science, that is, personalistically and not mechanistically interpreted—that he was a *progressive* social reformer rather than a reactionary one. In the

[1] For an inclusive summary, see Edwin E. Aubrey, "Theology and the Social Process," in "The Process of Religion," Essays in Honor of Dean Shailer Mathews, ed. by Miles H. Krumbine, Macmillan, New York, 1933, pp. 17–52; biblio., pp. 13–14.

[2] A definitive account of the relationship between the struggle for justice and the development of Judaism and Christianity is in Louis Wallis's "God and the Social Process," University of Chicago Press, Chicago, 1935. For a shorter analysis, see Wallis, "The Struggle for Justice," University of Chicago Press, Chicago, 1916, especially pp. 32–43.

last century or two the greatest damage was done the cause of social reconstruction when the practitioner of the profane science trespassed in the field of the practitioner of the sacred one. The preaching of the social gospel involved the danger that this would be reversed, that theologians would now create mischief, as some half-baked theologians started out to do, by attempting to pass off their materials as sociology. In Christian revelation there is no blueprint for any given social order. Its truths provide a firm foundation for the social edifice and animate its builders; but for the specifications for the structure, for its lines and its masses and its functional detail, architects are needed. These are found, or should be, among the practitioners of the social sciences. Attempts by some theologians to reproduce the structures of Judaeo-Christian communities of the past in an unrelated environment served only to provide commentaries on their conception of the relationship between God and Man.[3] Hence when Dean Mathews insisted that the social gospel was not a program of social reconstruction but rather an attitude of loyalty to the ideals of Jesus Christ and to God, an attitude that left men free to choose the social theories that fitted their needs, he was helping to insure that theologian, philosopher and profane scientist each stuck to his proper task, while cooperating fruitfully in the teamwork needed to make concrete a workable program of social reconstruction and to help translate it into accepted socio-political policy.

So varied were Dean Mathews' scholarly achievements that even in a brief and necessarily inadequate tribute one is tempted to dwell upon them. But by his personal students, and to a lesser extent, perhaps, by the scores or hundreds of persons whom he influenced through his work for the improvement of Protestant theological education in America, his scholarly interests are being carried forward without interruption. The greater loss is not the scholar but the man. In his character unfaltering courage, fearless determination and daring independence were fused, and his scholarship was as much the product of a soul of exceptional moral qualities as of a mind of unusual powers. He wrote a proper epitaph for so unique a personality when he remarked: "A reformer whom nobody criticizes is no reformer. It is better to be damned than ignored."[4] In the respect he won from his critics, in the affection he won from multitudes of humbler men, the measure of Dean Mathews' career may be found.

WILL LISSNER

[3] Cf. Wallis, "God and the Social Process," *op. cit.*, p. 311. See also J. Halleux, "Special Ethics," in Mercier, "A Manual of Modern Scholastic Philosophy," London and St. Louis (Herder), 1933, Vol. II, pp. 335–8.

[4] Shailer Mathews, "New Faith for Old: An Autobiography," Macmillan, New York, 1936, p. 55.

The war's end is not in sight nor is victory over Nazi Germany assured. Many men must die, more countries may be overrun before peace dawns once more upon this war-racked world. There may be some who feel it is idle time-wasting to begin planning, thus early in the struggle, details of the post-war world which free men are fighting to build upon the ruins of the old. Yet the nations which won the last war lost the peace largely for the lack of just such far-sighted planning for post-war cooperation. It is well that this fact should be recognized and steps taken now to make certain that this time the errors of the past shall not be repeated.

The New York Times, Nov. 23, 1941, p. 6E.

Contributors

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FRANK CHODOROV, associate editor in charge of promotion of THE AMERICAN JOURNAL OF ECONOMICS AND SOCIOLOGY, was incorrectly referred to in AM. JOUR. ECON. SOCIO., Vol. I, No. 1 (Oct. 1941), p. vi, as a contributor to *Scribner's;* he is a *former* contributor to *Scribner's Commentator.*

ALBERT PLEYDELL, director of the American Journal of Economics and Sociology, Inc., formerly deputy commissioner of purchase, City of New York, has been appointed by Mayor F. H. La Guardia commissioner of purchase. Mr. Pleydell (M.P.A., New York) was formerly instructor of business management, Graduate Division for Training in the Public Service, New York University.